

- 1 Without the consent of the General Assembly, the council shall not abolish or limit
2 the total enrollment of the general program offered at any community college to
3 meet the goal of reasonable access throughout the Commonwealth to a two (2) year
4 course of general studies designed for transfer to a baccalaureate program. This
5 does not restrict or limit the authority of the council, as set forth in this section, to
6 eliminate or make changes in individual programs within that general program;
- 7 (16) Eliminate, in its discretion, existing programs or make any changes in existing
8 academic programs at the state's postsecondary educational institutions, taking into
9 consideration these criteria:
- 10 (a) Consistency with the institution's mission and the strategic agenda;
11 (b) Alignment with the priorities in the strategic implementation plan for
12 achieving the strategic agenda;
13 (c) Elimination of unnecessary duplication of programs within and among
14 institutions; and
15 (d) Efforts to create cooperative programs with other institutions through
16 traditional means, or by use of distance learning technology and electronic
17 resources, to achieve effective and efficient program delivery;
- 18 (17) Ensure the governing board and faculty of all postsecondary education institutions
19 are committed to providing instruction free of discrimination against students who
20 hold political views and opinions contrary to those of the governing board and
21 faculty;
- 22 (18) Review proposals and make recommendations to the Governor regarding the
23 establishment of new public community colleges, technical institutions, and new
24 four (4) year colleges;
- 25 (19) Postpone the approval of any new program at a state postsecondary educational
26 institution, unless the institution has met its equal educational opportunity goals, as
27 established by the council. In accordance with administrative regulations

1 promulgated by the council, those institutions not meeting the goals shall be able to
2 obtain a temporary waiver, if the institution has made substantial progress toward
3 meeting its equal educational opportunity goals;

4 (20) Ensure the coordination, transferability, and connectivity of technology among
5 postsecondary institutions in the Commonwealth including the development and
6 implementation of a technology plan as a component of the strategic agenda;

7 (21) Approve the teacher education programs in the public institutions that comply with
8 standards established by the Education Professional Standards Board pursuant to
9 KRS 161.028;

10 (22) Constitute the representative agency of the Commonwealth in all matters of
11 postsecondary education of a general and statewide nature which are not otherwise
12 delegated to one (1) or more institutions of postsecondary learning. The
13 responsibility may be exercised through appropriate contractual relationships with
14 individuals or agencies located within or without the Commonwealth. The authority
15 includes but is not limited to contractual arrangements for programs of research,
16 specialized training, and cultural enrichment;

17 (23) Maintain procedures for the approval of a designated receiver to provide for the
18 maintenance of student records of the public institutions of higher education and the
19 colleges as defined in KRS 164.945, and institutions operating pursuant to KRS
20 165A.310 which offer collegiate level courses for academic credit, which cease to
21 operate. Procedures shall include assurances that, upon proper request, subject to
22 federal and state laws and regulations, copies of student records shall be made
23 available within a reasonable length of time for a minimum fee;

24 (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of
25 the Legislative Research Commission for distribution to the Health and Welfare
26 Committee;

27 (25) Develop in cooperation with each state postsecondary educational institution a

- 1 comprehensive orientation program for new members of the council and the
2 governing boards. The orientation program shall include but not be limited to the
3 information concerning the roles of the council, the strategic agenda and the
4 strategic implementation plan, and the respective institution's mission, budget,
5 plans, policies, strengths, and weaknesses;
- 6 (26) Develop a financial reporting procedure to be used by all state postsecondary
7 education institutions to ensure uniformity of financial information available to state
8 agencies and the public;
- 9 (27) Select and appoint a president of the council under KRS 164.013;
- 10 (28) Employ consultants and other persons and employees as may be required for the
11 council's operations, functions, and responsibilities;
- 12 (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A,
13 governing its powers, duties, and responsibilities as described in this section;
- 14 (30) Prepare and present by January 31 of each year an annual status report on
15 postsecondary education in the Commonwealth to the Governor, the Strategic
16 Committee on Postsecondary Education, and the Legislative Research Commission;
- 17 (31) Consider the role, function, and capacity of independent institutions of
18 postsecondary education in developing policies to meet the immediate and future
19 needs of the state. When it is found that independent institutions can meet state
20 needs effectively, state resources may be used to contract with or otherwise assist
21 independent institutions in meeting these needs;
- 22 (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and
23 students of the public postsecondary education system and the independent colleges
24 and universities;
- 25 (33) Develop a statewide policy to promote employee and faculty development in all
26 postsecondary institutions and in state and locally operated secondary area
27 technology centers through the waiver of tuition for college credit coursework in the

1 public postsecondary education system. Any regular full-time employee of a
 2 postsecondary public institution or a state or locally operated secondary area
 3 technology center may, with prior administrative approval of the course offering
 4 institution, take a maximum of six (6) credit hours per term at any public
 5 postsecondary institution. The institution shall waive the tuition up to a maximum
 6 of six (6) credit hours per term;

7 (34) Establish a statewide mission for adult education and develop a twenty (20) year
 8 strategy, in partnership with the Kentucky Adult Education Program~~[Department~~
 9 ~~for Adult Education and Literacy]~~, under the provisions of KRS 164.0203 for
 10 raising the knowledge and skills of the state's adult population. The council shall:

- 11 (a) Promote coordination of programs and responsibilities linked to the issue of
 12 adult education with the Kentucky Adult Education Program~~[Department for~~
 13 ~~Adult Education and Literacy]~~ and with other agencies and institutions;
- 14 (b) Facilitate the development of strategies to increase the knowledge and skills
 15 of adults in all counties by promoting the efficient and effective coordination
 16 of all available education and training resources;
- 17 (c) Lead a statewide public information and marketing campaign to convey the
 18 critical nature of Kentucky's adult literacy challenge and to reach adults and
 19 employers with practical information about available education and training
 20 opportunities;
- 21 (d) Establish standards for adult literacy and monitor progress in achieving the
 22 state's adult literacy goals, including existing standards that may have been
 23 developed to meet requirements of federal law in conjunction with the
 24 Collaborative Center for Literacy Development: Early Childhood through
 25 Adulthood; and
- 26 (e) Administer the adult education and literacy initiative fund created under KRS
 27 164.041; and

1 (35) Exercise any other powers, duties, and responsibilities necessary to carry out the
2 purposes of this chapter. Nothing in this chapter shall be construed to grant the
3 Council on Postsecondary Education authority to disestablish or eliminate any
4 college of law which became a part of the state system of higher education through
5 merger with a state college.

6 Section 102. KRS 164.0203 is amended to read as follows:

7 (1) The Council on Postsecondary Education shall adopt a strategic agenda that
8 identifies specific short-term objectives in furtherance of the long-term goals
9 established in KRS 164.003(2).

10 (2) (a) The purpose of the strategic agenda is to further the public purposes under
11 KRS 164.003 by creating high-quality, relevant, postsecondary education and
12 adult education opportunities in the Commonwealth. The strategic agenda
13 shall:

- 14 1. Serve as the public agenda for postsecondary education and adult
15 education for the citizens of the Commonwealth, providing statewide
16 priorities and a vision for long-term economic growth;
- 17 2. State those important issues and aspirations of the Commonwealth's
18 students, employers, and workforce reflecting high expectations for their
19 performance and the performance of the educational institutions and
20 providers that serve them; and
- 21 3. Sustain a long-term commitment for constant improvement, while
22 valuing market-driven responsiveness, accountability to the public,
23 technology-based strategies, and incentive-based motivation.

24 (b) The council shall develop a strategic implementation plan, which may be
25 periodically revised, to achieve the strategic agenda. The strategic agenda
26 shall serve as a guide for institutional plans and missions.

27 (3) The framework for the strategic implementation plan of the strategic agenda shall

1 include the following elements:

- 2 (a) A mission statement;
- 3 (b) Goals;
- 4 (c) Principles;
- 5 (d) Strategies and objectives;
- 6 (e) Benchmarks; and
- 7 (f) Incentives to achieve desired results.

8 (4) The implementation plan for the strategic agenda shall take into consideration the
9 value to society of a quality liberal arts education and the needs and concerns of
10 Kentucky's employers.

11 (5) The council shall develop benchmarks using criteria that shall include, but not be
12 limited to:

- 13 (a) Use of the statistical information commonly provided by governmental and
14 regulatory agencies or specific data gathered by authorization of the council;
- 15 (b) Comparison of regions and areas within the Commonwealth and comparisons
16 of the Commonwealth to other states and the nation; and
- 17 (c) Measures of educational attainment, effectiveness, and efficiency including,
18 but not limited to, those set forth in KRS 164.095.

19 (6) The council shall review the goals established by KRS 164.003(2) at least every
20 four (4) years and shall review its implementation plan at least every two (2) years.

21 (7) In developing the strategic agenda, the council shall actively seek input from the
22 Department of Education and local school districts to create necessary linkages to
23 assure a smooth and effective transition for students from the elementary and
24 secondary education system to the postsecondary education system. Upon
25 completion of the strategic agenda and strategic implementation plan, the council
26 shall distribute copies to each local school district.

27 (8) The strategic agenda shall include a long-term strategy, developed in partnership

1 with the **Kentucky Adult Education Program**~~[Department for Adult Education and~~
 2 ~~Literacy]~~, for raising the knowledge and skills of Kentucky's adult population, and
 3 ensuring lifelong learning opportunities for all Kentucky adults, drawing on the
 4 resources of all state government cabinets and agencies, business and civic
 5 leadership, and voluntary organizations.

6 Section 103. KRS 164.035 is amended to read as follows:

7 The Council on Postsecondary Education, in consultation with the **Kentucky Adult**
 8 **Education Program**~~[Department for Adult Education and Literacy]~~ and the Collaborative
 9 Center for Literacy Development: Early Childhood through Adulthood, shall assess the
 10 need for technical assistance, training, and other support to assist in the development of
 11 adult education and workforce development that support the state strategic agenda and
 12 that include a comprehensive coordinated approach to education and training services.
 13 The council shall promote the involvement of universities; colleges; technical
 14 institutions; elementary and secondary educational agencies; labor, business, and industry
 15 representatives; community-based organizations; citizens' groups; and other policymakers
 16 in the development of the regional strategies.

17 Section 104. KRS 164.041 is amended to read as follows:

- 18 (1) There is created in the Council on Postsecondary Education, a special fund to be
 19 known as the adult education and literacy initiative fund, which shall consist of
 20 moneys appropriated by the General Assembly, gifts, grants, other sources of
 21 funding, public and private, and interest accrued by the fund. This fund shall not
 22 lapse at the end of a fiscal year but shall be carried forward to be used only for the
 23 purposes specified in this section. Moneys accumulated in this fund on July 14,
 24 2000, shall remain in the fund and be transferred to the Council on Postsecondary
 25 Education to be used for purposes stated in this section.
- 26 (2) The purpose of the adult education and literacy initiative fund shall be to support
 27 strategies for adult education, to provide statewide initiatives for excellence, and to

1 provide funds for research and development activities.

2 (3) The council, in collaboration with the Kentucky Adult Education
 3 Program~~[Department for Adult Education and Literacy]~~, shall establish the
 4 guidelines for the use, distribution, and administration of the fund, financial
 5 incentives, technical assistance, and other support for strategic planning; and
 6 guidelines for fiscal agents to assess county and area needs and to develop strategies
 7 to meet those needs.

8 (4) The fund shall include the following strategies:

9 (a) Statewide initiatives. Funds shall be used to encourage collaboration with
 10 other organizations, stimulate development of models of adult education
 11 programs that may be replicated elsewhere in the state, provide incentives for
 12 adults, employers, and providers to encourage adults to establish and
 13 accomplish learning contracts, provide incentives to encourage participation
 14 in adult education, assist providers of county and area programs in areas of
 15 highest need, and for other initiatives of regional or statewide significance as
 16 determined by the council. The Collaborative Center for Literacy
 17 Development: Early Childhood through Adulthood created under KRS
 18 164.0207 shall evaluate the reading and literacy components of model
 19 programs funded under this paragraph.

20 (b) Research and demonstration. The funds shall be used to develop:

- 21 1. Standards for the preparation, professional development, and support for
 22 adult educators with the advice of the Kentucky Adult Education
 23 Program~~[Department for Adult Education and Literacy]~~ and as
 24 compatible with funds provided under Title II of the Federal Workforce
 25 Investment Act;
- 26 2. A statewide competency-based certification for transferable skills in the
 27 workplace; and

1 3. A statewide public information and marketing campaign.

2 Section 105. KRS 164.477 is amended to read as follows:

3 (1) As used in this section, unless the context requires otherwise:

4 (a) "Alternative format" means any medium or format for the presentation of
5 instructional materials other than standard print needed by a student with a
6 disability for a reading accommodation, including but not limited to braille,
7 large print texts, audio recordings, digital texts, and digital talking books;

8 (b) "Instructional material" means a textbook or other material published
9 primarily for use by students in a course of study in which a student with a
10 disability is enrolled that is required or essential to a student's success, as
11 determined by the course instructor. "Instructional material" includes
12 nontextual mathematics and science material to the extent that software is
13 commercially available to permit the conversion of the electronic file of the
14 material into a format that is compatible with assistive technologies such as
15 speech synthesis software or braille translation software commonly used by
16 students with disabilities;

17 (c) "Nonprinted instructional material" means instructional material in a format
18 other than print, including instructional material that requires the availability
19 of electronic equipment in order to be used as a learning resource, including
20 but not limited to software programs, videodiscs, videotapes, and audio tapes;

21 (d) "Printed instructional material" means instructional material in book or other
22 printed form;

23 (e) "Publisher" means an individual, firm, partnership, corporation, or other entity
24 that publishes or manufactures instructional material used by students
25 attending a public or independent postsecondary education institution in
26 Kentucky;

27 (f) "State Repository for Alternative Format Instructional Materials" or

1 "repository" means a consortium established or otherwise designated by the
 2 Council on Postsecondary Education under subsection (8) of this section to
 3 serve as a state repository for electronic files or alternative format
 4 instructional materials obtained from publishers, created by institutions, or
 5 received through other means;

6 (g) "Structural integrity" means the inclusion of all of the information provided in
 7 printed instructional material, including but not limited to the text of the
 8 material sidebars, the table of contents, chapter headings and subheadings,
 9 footnotes, indexes, and glossaries, but need not include nontextual elements
 10 such as pictures, illustrations, graphs, or charts; and

11 (h) "Working day" means a day that is not Saturday, Sunday, or a national
 12 holiday.

13 (2) The purpose of this section is to ensure, to the maximum extent possible, that all
 14 postsecondary students with a disability in Kentucky requiring reading
 15 accommodations, in accordance with Section 504 of the Rehabilitation Act, 29
 16 U.S.C. sec. 794, or the Americans with Disabilities Act, 42 U.S.C. secs. 12101 et
 17 seq., including but not limited to students who are blind, are visually impaired, or
 18 have a specific learning disability or other disability affecting reading, shall have
 19 access to instructional materials in alternative formats that are appropriate to their
 20 disability and educational needs.

21 (3) A publisher shall, upon fulfillment of the requirements of subsections (6) and (7) of
 22 this section, provide to a postsecondary education institution or to the State
 23 Repository for Alternative Format Instructional Materials, at no cost:

24 (a) Printed instructional material in an electronic format; and

25 (b) Nonprinted instructional material in an electronic format, when the technology
 26 is available to maintain the material's structural integrity.

27 (4) Instructional material provided by a publisher in electronic format shall:

- 1 (a) Maintain the structural integrity of the original instructional material, except
- 2 as provided for in paragraph (b) subsection (3) of this section;
- 3 (b) Be compatible with commonly used braille translation and speech synthesis
- 4 software;
- 5 (c) Include corrections and revisions as may be necessary; and
- 6 (d) Be in a format that is mutually agreed upon by the publisher and the
- 7 requesting institution or the State Repository for Alternative Format
- 8 Instructional Materials. If good-faith efforts fail to produce an agreement as to
- 9 an electronic format that will preserve the structural integrity of the
- 10 instructional material, the publisher shall provide the instructional material in
- 11 XML (Extensible Markup Language), utilizing an appropriate document-type
- 12 definition suitable for the creation of alternative format materials, and shall
- 13 preserve as much of the structural integrity of the original instructional
- 14 material as possible.
- 15 (5) The publisher shall transmit or otherwise send an electronic format version of
- 16 requested instructional material within fifteen (15) working days of receipt of an
- 17 appropriately completed request. Should this timetable present an undue burden for
- 18 a publisher, the publisher shall submit within the fifteen (15) working day period a
- 19 statement to the requesting entity certifying the expected date for transmission or
- 20 delivery of the file.
- 21 (6) (a) To receive an electronic format version of instructional material, a written
- 22 request shall be submitted to the publisher that certifies:
- 23 1. The instructional material has been purchased for use by a student with a
- 24 disability by the student or the institution the student attends or is
- 25 registered to attend;
- 26 2. The student has a disability that prevents the student from using the
- 27 standard instructional material; and

- 1 3. The instructional material is for use by the student in connection with a
- 2 course in which he or she is registered or enrolled.
- 3 (b) A publisher may also require a statement signed by the student or, if the
- 4 student is a minor, the student's parent or legal guardian, agreeing that the
- 5 student will:
- 6 1. Use the electronic copy of the instructional material solely for his or her
- 7 own educational purposes; and
- 8 2. Not copy or distribute the instructional material for use by others.
- 9 (7) The request for an electronic format version of instructional material shall be
- 10 prepared and signed by:
- 11 (a) The coordinator of services for students with a disability at the institution;
- 12 (b) A representative of the Office[Department] for the Blind;
- 13 (c) A representative of the Office[Department] of Vocational Rehabilitation; or
- 14 (d) A representative of the State Repository for Alternative Format Instructional
- 15 Materials.
- 16 (8) The Council on Postsecondary Education may, to the extent funds are available,
- 17 establish or otherwise designate a consortium to be called the State Repository for
- 18 Alternative Format Instructional Materials to serve as a state repository for
- 19 electronic files and alternative format materials for the purpose of facilitating the
- 20 timely access of appropriate alternative instructional materials by postsecondary
- 21 students with a disability.
- 22 (9) The Council on Postsecondary Education may promulgate administrative
- 23 regulations governing the implementation and administration of this section.
- 24 (10) The council shall work with representatives of each postsecondary institution to
- 25 develop policies and procedures designed to ensure to the maximum extent possible
- 26 that students with disabilities have access to instructional materials in appropriate
- 27 alternative formats within the first week of class.

- 1 (11) The council, in consultation with appropriate entities, including but not limited to
2 the Office~~[Department]~~ for the Blind, the Kentucky Assistive Technology Service
3 Network, Recording for the Blind and Dyslexic, and the Kentucky Association on
4 Higher Education and Disability, shall include within its annual status report on
5 postsecondary education in Kentucky a continuing assessment of the need for
6 statewide technical assistance, training, and other supports designed to increase the
7 availability and effective use of alternative format instructional materials.
- 8 (12) The State Repository for Alternative Format Instructional Materials or the council
9 may receive electronic files and alternative format materials from:
- 10 (a) Publishers;
- 11 (b) Postsecondary education institutions that have created alternative materials for
12 use by a student with a disability;
- 13 (c) The Kentucky Department of Education, receiving electronic files from
14 publishers under the requirements of KRS 156.027; or
- 15 (d) Other sources.
- 16 (13) The repository or the council shall, upon receipt of documents as set forth in
17 subsection (6) of this section, provide at no cost copies of electronic files and
18 alternative format materials to:
- 19 (a) Postsecondary education institutions in Kentucky; and
- 20 (b) The Kentucky Department of Education, to assist in the implementation of the
21 requirements of KRS 156.027.
- 22 (14) The repository shall provide to a publisher, upon request:
- 23 (a) A summary of all electronic or alternative format versions of instructional
24 material from that publisher provided to students, postsecondary education
25 institutions, and the Kentucky Department of Education from its holdings; and
- 26 (b) Copies of requests and related certification documents received for
27 instructional materials from that publisher.

1 (15) The repository or the council may submit requests for electronic files to publishers
2 on behalf of institutions.

3 (16) (a) A postsecondary education institution or an educational instructor, assistant,
4 or tutor may assist a student with a disability by using the electronic format
5 version of instructional material as provided by this section solely to
6 transcribe or arrange for the conversion of the instructional material into an
7 alternative format, or to otherwise assist the student.

8 (b) If an alternative format version of instructional material is created, an
9 institution may, for the purpose of providing the version to other students with
10 disabilities, share that version with:

- 11 1. The repository;
- 12 2. A Kentucky postsecondary education institution serving a student with a
13 disability; and
- 14 3. An authorized entity as defined under 17 U.S.C. sec. 121 that commonly
15 provides alternative format materials for use by students in Kentucky
16 institutions.

17 (17) The disk or file of an electronic format version of instructional material used
18 directly by a student shall be copy-protected, or reasonable precautions shall be
19 taken by the institution to ensure that the student does not copy or distribute the
20 electronic format version in violation of the Copyright Revisions Act of 1976, as
21 amended, 17 U.S.C. secs. 101 et seq.

22 (18) Nothing in this section shall be deemed to authorize any use of instructional
23 materials that would constitute an infringement of copyright under the Copyright
24 Revision Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.

25 (19) Nothing in this section shall absolve covered entities from the obligation to provide
26 equivalent access to information technology and software as set forth in KRS
27 61.982.

1 (20) A publisher shall be considered a place of public accommodation for the purposes
 2 of KRS 344.130. Failure to comply with the requirements of this section shall be an
 3 unlawful practice of discrimination on the basis of disability for the purposes of
 4 KRS 344.120.

5 Section 106. KRS 164.478 is amended to read as follows:

6 (1) It is the intent of the General Assembly to increase the educational level of deaf and
 7 hard of hearing persons by assuring them an equal opportunity to obtain an
 8 education in the public postsecondary institutions.

9 (2) The public postsecondary institutions shall make their programs accessible to deaf
 10 and hard of hearing students by providing support services necessary for such
 11 students to fully participate in the programs. The support services shall include, but
 12 not be limited to, interpreters and notetakers in the classroom and equal access to all
 13 support services available to those who are not deaf or hard of hearing. Appropriate
 14 assistive listening devices and alerting devices shall be available in dormitories
 15 housing deaf or hard of hearing students.

16 (3) (a) The General Assembly shall appropriate funds to the Office~~[Department]~~ of
 17 Vocational Rehabilitation excluding costs of capital equipment or
 18 modifications for installation of assistive listening or alerting devices to cover
 19 the costs of support services at the institutions for students who are deaf or
 20 hard of hearing.

21 (b) The Office~~[Department]~~ of Vocational Rehabilitation shall administer funding
 22 of support services at institutions for students who are deaf or hard of hearing
 23 contingent on General Assembly funding. The postsecondary institutions and
 24 the Office~~[Department]~~ of Vocational Rehabilitation shall cooperate to assure
 25 that funds are used to effectively provide support services to students who are
 26 deaf and hard of hearing.

27 (c) The funds shall be distributed to institutions based upon actual costs or

1 established fees for service of providing support services to individual
2 students.

3 Section 107. KRS 164.5805 is amended to read as follows:

4 (1) Effective July 1, 1998, the Kentucky Community and Technical College System
5 shall be the legal successor to the postsecondary Kentucky Tech institutions and
6 corresponding administrative units in the former Cabinet for Workforce
7 Development and shall assume all assets and liabilities of this system, including
8 without limitation all obligations, responsibilities, programs, staff, instructional
9 supplies, equipment, real property, facilities, funds, and records. The Finance and
10 Administration Cabinet shall execute the instruments necessary to transfer the real
11 property relating to the operation of the postsecondary institutions in the Kentucky
12 Tech System from the former Cabinet for Workforce Development to the Kentucky
13 Community and Technical College System.

14 (a) The staff positions in the former Department for Technical Education and the
15 former Cabinet for Workforce Development whose responsibilities include
16 support for the postsecondary institutions in the Kentucky Tech System and
17 the school-based positions shall be transferred to the Kentucky Community
18 and Technical College System. Selected employees of the Kentucky Tech
19 regional offices shall be transferred and reassigned within the Kentucky
20 Community and Technical College System. Appropriate central office
21 functions from the Department for Technical Education shall be assigned
22 within the system to carry out the administrative and support functions with
23 the approval of the board of regents for the Kentucky Community and
24 Technical College System.

25 (b) All funds related to the costs of operating the Kentucky Tech postsecondary
26 institutions, including the administrative costs, shall be transferred to the
27 board of regents for the Kentucky Community and Technical College System

1 for carrying out the mission of the postsecondary technical institutions and
2 colleges.

3 (c) Funds raised by a not-for-profit or nonprofit organization for a specific
4 program or technical institution shall be for the exclusive use of the program
5 or that technical institution.

6 (d) The following provisions shall apply to the employees who are transferred
7 from the former Cabinet for Workforce Development to the Kentucky
8 Community and Technical College System, effective July 1, 1998:

- 9 1. Accumulated sick leave, compensatory time, and annual leave as of June
10 30, 1998, shall be transferred with each employee;
- 11 2. Employees who have earned continuing status as defined in KRS
12 151B.010 and employees who have earned classified status as merit
13 system employees under KRS Chapter 18A shall be provided the same
14 standing. Those employees who are transferred and are in the process of
15 earning continuing status or classified status shall earn their standing
16 based on the rules that were governing them on June 30, 1998, in their
17 respective systems. New employees within the system shall earn status
18 based on the new policies established by the board;
- 19 3. Employees shall transfer into the new system at a salary not less than
20 their previous salary as of June 30, 1998;
- 21 4. Employees shall be provided retirement plans in the same system where
22 they are currently enrolled: the Kentucky Teachers' Retirement System
23 under KRS 161.220 or the Kentucky Employees Retirement System
24 under KRS 61.525;
- 25 5. Employees shall be provided a health benefits package that is available
26 or equivalent to that provided to other state or university employees; and
- 27 6. Employees shall be provided life insurance coverage and optional

1 insurance or investment programs.

2 (e) The board shall adopt rules that are the same as the administrative regulations
 3 under KRS Chapter 151B in effect on June 30, 1998, to govern the certified
 4 and equivalent employees who transfer from the former Cabinet for
 5 Workforce Development, except that the rules shall provide that all grievances
 6 and appeals shall be to the board of regents or to the board's designee. The
 7 board shall adopt rules that are the same as the administrative regulations
 8 under KRS Chapter 18A in effect on June 30, 1998, to govern the transferred
 9 classified employees, except that the rules shall provide that all grievances and
 10 appeals shall be to the board of regents or to the board's designee. A
 11 transferred employee shall have the option to elect to participate in the new
 12 Kentucky Community and Technical College personnel system in lieu of the
 13 rules under which the employee transferred. An employee who elects to accept
 14 this option may not return to the previous personnel policy. An employee shall
 15 have the right to exercise this option at any time.

16 (2) New employees hired after July 1, 1997, in the Kentucky Community and Technical
 17 College System shall be governed by the rules and regulations established by the
 18 board.

19 Section 108. KRS 171.312 is amended to read as follows:

20 In order to better facilitate the operation and management, the Kentucky Historical
 21 Society shall be organized into four (4) separate divisions. These divisions shall include:
 22 Research and Publications; Oral History and Educational Outreach; Administration; and
 23 Museums. The divisions shall be headed by a director appointed by the Executive
 24 Committee of the Kentucky Historical Society of the Commerce[Education, Arts, and
 25 Humanities] Cabinet pursuant to KRS 171.311.

26 Section 109. KRS 171.347 is amended to read as follows:

27 There is created the Commonwealth of Kentucky Abraham Lincoln Bicentennial

1 Commission, which shall be attached to the Kentucky Historical Society for
2 administrative purposes. The commission shall be composed of twenty (20) members, as
3 follows:

- 4 (1) Two (2) members of the House of Representatives, appointed by the Speaker of the
5 House;
- 6 (2) Two (2) members of the Senate, appointed by the President of the Senate;
- 7 (3) The secretary of the Education~~[- Arts, and Humanities]~~ Cabinet, or his or her
8 designee;
- 9 (4) One (1) member from the Commerce Cabinet, appointed by the secretary of that
10 cabinet;
- 11 (5) One (1) member from the Kentucky Historical Society, appointed by the director of
12 that agency;
- 13 (6) One (1) member from the Kentucky Heritage Council, appointed by the executive
14 director of that agency;
- 15 (7) One (1) member from the Kentucky African-American Heritage Commission,
16 appointed by the head of that agency;
- 17 (8) One (1) member from the Kentucky Humanities Council, appointed by the
18 executive director of that agency;
- 19 (9) One (1) member from the Abraham Lincoln Bicentennial Commission established
20 by the United States Congress, appointed by the concurrence of the chairs of that
21 agency;
- 22 (10) The Larue County judge/executive, or his or her designee;
- 23 (11) One (1) member from the Abraham Lincoln Birthplace, appointed by the
24 superintendent of that national historic site;
- 25 (12) One (1) member from the Lincoln Museum in Hodgenville, appointed by the
26 president of that agency;
- 27 (13) One (1) member from the Mary Todd Lincoln House in Lexington, appointed by the

1 head of that agency;

2 (14) One (1) member from the Farmington Historic Home museum in Louisville,
3 appointed by the head of that agency; and

4 (15) Four (4) citizen members from the state at large with a demonstrated interest in
5 history and substantial knowledge and appreciation of Abraham Lincoln, appointed
6 by the Governor.

7 The chair of the commission shall be elected from among the membership by the
8 commission members.

9 Section 110. KRS 171.381 is amended to read as follows:

10 (1) The Kentucky Heritage Council shall be dedicated to the preservation and
11 protection of all meaningful vestiges of Kentucky's heritage for succeeding
12 generations, and in pursuit of this dedication it shall engage in and concern itself
13 with worthy projects and other matters related to the conservation and continuing
14 recognition of buildings, structures, sites, and other landmarks associated with the
15 archaeological, cultural, economic, military, natural, political, or social aspects of
16 Kentucky's history.

17 (2) The duties and functions of the council shall be to:

18 (a) Review and recommend appropriate projects and programs to insure the
19 proper recognition, preservation, and protection of matters related to
20 Kentucky's heritage, particularly those in the nature of or associated with real
21 property;

22 (b) Advise, consult, and cooperate generally with state, local, and national
23 officials and agencies to accomplish the purposes to which the council is
24 dedicated, and specifically with the Kentucky Department of Parks and
25 Historical Society in matters of common concern;

26 (c) Encourage, promote, and coordinate historic preservation programs being
27 conducted in Kentucky by other agencies or groups, public and private; and

- 1 (d) Prepare and maintain an inventory or survey of Kentucky's resource of historic
 2 buildings, sites, structures, and other landmarks, and list in an official roll
 3 those such landmarks which possess statewide or national significance.
- 4 (3) The council may:
- 5 (a) Accept grants or other funds or property from any available source, public or
 6 private;
- 7 (b) Employ, with the approval of the Governor, such staff as may be necessary.
 8 Any member of such staff shall be entitled to compensation under KRS
 9 Chapter 18A, and may be reimbursed for necessary and actual expenses in
 10 accordance with the provisions of KRS Chapters 44 and 45;
- 11 (c) Enter into such contractual relationships as may be necessary;
- 12 (d) Acquire real property, by gift or devise or by purchase pursuant to the
 13 provisions of KRS 45A.045, and hold the same in the name of the
 14 Commonwealth for the use and benefit of the council;
- 15 (e) Initiate its own projects of an appropriate nature, and undertake or otherwise
 16 engage in joint projects with other agencies or groups, public or private; and
- 17 (f) Adopt such rules and regulations as may be necessary and incidental to the
 18 performance of the council's duties and functions.
- 19 (4) The receipt, control, and expenditure of funds shall be subject to the general
 20 provisions of the Kentucky Revised Statutes governing financial administration of
 21 all state agencies.
- 22 (5) No provision of this section shall be construed as repealing any of the laws of the
 23 Commonwealth relating to the preservation, protection, and recognition of historical
 24 matters, but shall be held and construed as ancillary and supplemental thereto.
- 25 (6) The council shall receive applications, interview and recommend to the Governor
 26 three (3) persons as nominees for appointment as the director of the Heritage
 27 Division, Commerce~~Education, Arts, and Humanities~~ Cabinet. The director of the

- 1 Heritage Division shall be the state historic preservation officer.
- 2 (7) The responsibilities of the state historic preservation officer shall include:
- 3 (a) Development for the State Historic Preservation Program;
- 4 (b) Direction of a comprehensive statewide survey of historic properties;
- 5 (c) Nomination of historic properties to the National Register of Historic Places;
- 6 (d) Cooperation in the development of effective working relationships with
- 7 federal, state, and local agencies that participate in the management of historic
- 8 properties and in project planning that may affect historic properties;
- 9 (e) Cooperation in the integration of historic preservation planning with all levels
- 10 of planning;
- 11 (f) Cooperation in the development and maintenance of a review procedure for
- 12 publicly funded, assisted, and licensed undertakings that may affect historic
- 13 properties within the state;
- 14 (g) Participation in the review of federal, federally assisted, and federally licensed
- 15 undertakings that may affect historic properties included in or eligible for
- 16 inclusion in the National Register under Section 106 of the National Historic
- 17 Preservation Act and Executive Order 11593;
- 18 (h) Assisting federal agencies in fulfilling their historic preservation
- 19 responsibilities under federal law and regulations;
- 20 (i) Liaison with organizations of professional archaeologists, historians,
- 21 architects, architectural historians, planners, and others concerned with
- 22 historic preservation;
- 23 (j) Development and operation of a program of public information and education
- 24 concerning the preservation program;
- 25 (k) Administration of the grants program within the state;
- 26 (l) Preparation and maintenance of a comprehensive statewide historic
- 27 preservation plan; and

(m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 111. KRS 171.420 is amended to read as follows:

The State Archives and Records Commission, is hereby created and shall be a seventeen (17) member body constituted as follows: The state librarian or his designee, who shall be the chairman of the commission, secretary of the Education~~[, Arts, and Humanities]~~ Cabinet or his designee, the Auditor of Public Accounts or his designee, the Chief Justice of the Supreme Court or his designee, the director of the Legislative Research Commission or his designee, the Attorney General or his designee, the director of the Office for Policy and Management in the Office of the Controller or his designee, the executive director of the Commonwealth Office of Technology or her or his designee, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Historical Society, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Library Association, one (1) member appointed by the Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges, four (4) citizens at large, and one (1) member appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators. Vacancies shall be filled by the Governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the

1 initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one
 2 (1) for two (2) years, and one (1) for one (1) year. The commission shall advise the
 3 Department for Libraries and Archives on matters relating to archives and records
 4 management. The commission shall have the authority to review and approve schedules
 5 for retention and destruction of records submitted by state and local agencies. In all cases,
 6 the commission shall determine questions which relate to destruction of public records,
 7 and their decision shall be binding on the parties concerned and final, except that the
 8 commission may reconsider or modify its actions upon the agreement of a simple
 9 majority of the membership present and voting.

10 Section 112. KRS 171.805 is amended to read as follows:

11 (1) The Kentucky African-American Heritage Commission shall be dedicated to the
 12 preservation and protection of all meaningful vestiges of Kentucky's African-
 13 American heritage.

14 (2) The duties and functions of the commission shall be to:

15 (a) Advise the secretary of the Commerce~~[Education, Arts, and Humanities]~~
 16 Cabinet and agencies within the cabinet on matters relating to African-
 17 American heritage.

18 (b) Encourage other public and private agencies within the areas of the arts, the
 19 humanities, and the sciences to incorporate the African-American influence
 20 when developing programs on the history and heritage of Kentucky.

21 (c) Represent a network of groups and individuals interested or involved in
 22 promoting awareness of African-American heritage in Kentucky.

23 (d) Advocate the preservation, conservation, and interpretation of significant
 24 buildings, sites, neighborhoods, documents, artifacts, and lifeways that
 25 represent and embody African-American heritage.

26 (e) Recognize and sanction projects which advance wider knowledge of African-
 27 Americans' impact on life in Kentucky.

- (f) Coordinate an initiative to protect, preserve, and promote the history of the Underground Railroad in Kentucky, in accordance with KRS 171.812.

Section 113. KRS 171.814 is amended to read as follows:

An Underground Railroad Advisory Council shall be established within the commission.

(1) The council shall consist of thirteen (13) members, as follows:

- (a) Secretary of the Education~~[- Arts, and Humanities]~~ Cabinet, or designee;
- (b) Secretary of the Commerce Cabinet, or designee;
- (c) Secretary of the Transportation Cabinet, or designee;
- (d) Director of the Kentucky Historical Society, or designee;
- (e) State historic preservation officer of the Kentucky Heritage Council, or designee;
- (f) Chair of the commission or designee;
- (g) Director of the Underground Railroad Institute at Georgetown College, or designee;
- (h) Two (2) members of the General Assembly who hold an interest in the Underground Railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;
- (i) Two (2) at-large representatives who hold an interest in the protection, preservation, and promotion of the history of the Underground Railroad in Kentucky, appointed by the Governor;
- (j) One (1) member of the board or staff of the National Underground Railroad Freedom Center who resides within a county of the Northern Kentucky Area Development District; and
- (k) One (1) member of the board or staff of the National Underground Railroad Museum who resides within a county of the Buffalo Trace Area Development District.

(2) The duties of the council shall be to:

- 1 (a) Advise and assist the commission with respect to issues and opportunities
- 2 related to the Underground Railroad; and
- 3 (b) Annually review and make recommendations to the commission on the annual
- 4 report and plan for future action.
- 5 (3) Members of the council shall be appointed for four (4) year terms, except that initial
- 6 appointments for the two (2) at-large members shall be made so that one (1)
- 7 member is appointed for two (2) years, and one (1) member is appointed for three
- 8 (3) years. Sitting members shall be eligible for reappointment.
- 9 (4) The chair of the commission shall serve as chair of the council.
- 10 (5) The council shall meet annually or more frequently at the request of the chair.
- 11 (6) Six (6) members shall constitute a quorum for conducting business.
- 12 (7) In the event of a vacancy, the appropriate appointing entity shall appoint a
- 13 replacement member who shall hold office during the remainder of the term so
- 14 vacated.
- 15 (8) Members of the council shall serve without compensation.

16 Section 114. KRS 171.816 is amended to read as follows:

17 The Commerce~~[Education, Arts, and Humanities]~~ Cabinet shall be charged with the

18 purpose of protecting, preserving, and promoting the history of the Underground Railroad

19 in Kentucky in accordance with KRS 171.805 and 171.810 to 171.814. The secretary of

20 the Commerce~~[Education, Arts, and Humanities]~~ Cabinet shall receive an annual report

21 from the Kentucky African-American Heritage Commission in accordance with KRS

22 171.812(5), and shall review and submit the annual report to the Governor and the

23 Legislative Research Commission for distribution to the appropriate committees.

24 Section 115. KRS 177.109 is amended to read as follows:

25 The Transportation and Tourism Interagency Committee shall have, but not be limited to,

26 the following duties and responsibilities:

- 27 (1) Review Kentucky's signage laws, administrative regulations, and policies

- 1 implementing the federal "Manual on Uniform Traffic Control Devices" and submit
- 2 any proposed revisions to the secretary of the Transportation Cabinet;
- 3 (2) Seek public comment on Kentucky's signage laws, administrative regulations, and
- 4 policies;
- 5 (3) Advise the Transportation Cabinet on the scenic byways and highways program;
- 6 (4) Review and make recommendations on requests for highway signage from tourism-
- 7 related entities;
- 8 (5) Coordinate development of the tourism information potential of welcome centers
- 9 and rest areas through such means as interactive videos, information kiosks, and
- 10 highway advisory radio transmitters, as well as other innovative methods which
- 11 may be identified by the committee;
- 12 (6) Monitor developments across the United States relating to billboards and official
- 13 signs;
- 14 (7) Report to the secretary of the Transportation Cabinet and to the secretary of the
- 15 Commerce Cabinet on issues of mutual interest to the cabinets;
- 16 (8) Serve as an advisory committee on issues identified by the secretary of the
- 17 Transportation Cabinet and secretary of the Commerce Cabinet; and
- 18 (9) Report committee recommendations to the secretary of the Transportation Cabinet,
- 19 the secretary of the Commerce Cabinet, the secretary of the Education[, Arts, and
- 20 Humanities] Cabinet, and the secretary of the Executive Cabinet.

21 Section 116. KRS 186.576 is amended to read as follows:

22 As used in KRS 186.576 to 186.579:

- 23 (1) "Applicant" means any person applying for an instruction permit or an operator's
- 24 license who must use a bioptic telescopic device in order to operate a motor vehicle;
- 25 (2) "Binocular vision" means visual acuity that is 20/200 or better in both eyes, with or
- 26 without corrective lenses;
- 27 (3) "Bioptic telescopic device" means a two (2) focus optical system used to magnify

- 1 distant objects by including a small telescope that is mounted in a spectacle lens in a
 2 manner to allow an unobstructed view of the horizontal visual field through a
 3 person's normal distance corrective lens;
- 4 (4) "Certified driver training program" means a program that provides and coordinates
 5 comprehensive assessment and training of driving skills and responses that
 6 emphasizes the vision, hearing, psychological, perceptual, orientation, and mobility
 7 skills of an applicant and that is certified by the department;
- 8 (5) "Combined visual acuity" means visual acuity attained by using both eyes together
 9 where a person has binocular vision;
- 10 (6) "Corrective lenses" means eyeglasses, contact lenses, and intraocular lenses, but
 11 does not mean a bioptic telescopic device;
- 12 (7) "Daytime driving restriction" means operation of a motor vehicle is restricted to the
 13 period of time from between thirty (30) minutes after sunrise and thirty (30) minutes
 14 before sunset. Under this restriction, driving during adverse weather conditions that
 15 significantly reduce the visibility of the roadway, other traffic, and traffic control
 16 devices shall be prohibited;
- 17 (8) "Office~~[Department]~~" means the Office~~[Department]~~ for the Blind;
- 18 (9) "Monocular vision" means visual acuity that is 20/200 or better in only one (1) eye,
 19 with or without corrective lenses;
- 20 (10) "Restricted out-of-state driver" means a person who has been issued, by another
 21 state, a valid operator's license with a restriction requiring the use of a bioptic
 22 telescopic device;
- 23 (11) "Vision specialist" means a licensed ophthalmologist or optometrist;
- 24 (12) "Visual acuity" means the measure of a person's visual acuity based on the Snellen
 25 visual acuity scale; and
- 26 (13) "Visual field" means the area of physical space visible to the eye in a given fixed
 27 position.

1 Section 117. KRS 186.578 is amended to read as follows:

2 (1) Applicants accepted to participate in a certified driver training program shall meet
3 the following minimum vision requirements:

4 (a) A distance visual acuity of 20/200 or better, with corrective lenses, in the
5 applicant's better eye;

6 (b) A visual field of at least one hundred twenty (120) degrees horizontally and
7 eighty (80) degrees vertically in the same eye as used in paragraph (a) of this
8 subsection;

9 (c) A distance visual acuity of 20/60 or better using a bioptic telescopic device;
10 and

11 (d) No ocular diagnosis or prognosis that indicates a likelihood that significant
12 deterioration of visual acuity or visual field to levels below the minimum
13 standards outlined in this subsection will occur.

14 (2) Upon acceptance into a certified driver training program, an applicant shall be given
15 an examination to test his or her knowledge of the motor vehicle laws of the
16 Commonwealth. This examination may be taken orally. Upon successful
17 completion of this examination, the applicant shall be issued a temporary
18 instruction permit, that shall be valid only when the applicant is accompanied by an
19 employee of a certified driver training program. Temporary instruction permits
20 issued under this section shall be valid for one (1) year from the date of issue.

21 (3) An applicant who successfully completes a certified driver training program shall be
22 reexamined by a vision specialist upon completion of the program. The examination
23 shall certify that the applicant continues to meet the visual acuity and visual field
24 standards set forth in subsection (1) of this section.

25 (4) An applicant who successfully completes a certified driving training program and
26 passes the visual reexamination required by subsection (3) of this section shall be
27 eligible to take a comprehensive operator's license examination administered by the

1 State Police. The operator's license examination shall include testing of the
 2 applicant's driving skills over a route specifically designed to test the applicant's
 3 competency using a bioptic telescopic device.

4 (5) An applicant who is a restricted out-of-state driver establishing residence in
 5 Kentucky shall be required to take and pass a temporary instruction permit
 6 examination before being eligible to take the operator's license examination. An
 7 applicant who is a restricted out-of-state driver establishing residence in Kentucky
 8 shall not be required to complete a certified driver training program, but shall be
 9 required to take and pass the visual examination outlined in subsection (3) of this
 10 section before taking the operator's license examination.

11 (6) If an applicant or restricted out-of-state driver fails the operator's license
 12 examination three (3) times, he or she shall not be eligible to retake the examination
 13 until successfully completing additional training from a certified driver training
 14 program and obtaining an affidavit from the program director recommending that
 15 the applicant or restricted out-of-state driver be allowed to retake the examination.

16 (7) The Office~~[Department]~~ for the Blind shall promulgate administrative regulations in
 17 accordance with KRS Chapter 13A to set standards for a certified driver training
 18 program and to otherwise carry out the provisions of this section.

19 Section 118. KRS 194A.135 is amended to read as follows:

20 (1) The Kentucky Council on Developmental Disabilities is created within the cabinet.

21 (2) The Kentucky Council on Developmental Disabilities is established to comply with
 22 the requirements of the Developmental Disabilities Act of 1984 and any subsequent
 23 amendment to that act.

24 (3) The members of the Kentucky Council on Developmental Disabilities shall be
 25 appointed by the Governor to serve as advocates for persons with developmental
 26 disabilities. The council shall be composed of twenty-six (26) members.

27 (a) Ten (10) members shall be representatives of: the principal state agencies

1 administering funds provided under the Rehabilitation Act of 1973 as
 2 amended; the state agency that administers funds provided under the
 3 Individuals with Disabilities Education Act (IDEA); the state agency that
 4 administers funds provided under the Older Americans Act of 1965 as
 5 amended; the single state agency designated by the Governor for
 6 administration of Title XIX of the Social Security Act for persons with
 7 developmental disabilities; higher education training facilities, each
 8 university-affiliated program or satellite center in the Commonwealth; and the
 9 protection and advocacy system established under Public Law 101-496. These
 10 members shall represent the following:

- 11 1. Office of~~Department for~~ Vocational Rehabilitation;
- 12 2. Office~~Department~~ for the Blind;
- 13 3. Division of Exceptional Children, within the Department of Education;
- 14 4. Division of Aging Services;
- 15 5. Department for Medicaid Services;
- 16 6. Department of Public Advocacy, Protection and Advocacy Division;
- 17 7. University-affiliated programs;
- 18 8. Local and nongovernmental agencies and private nonprofit groups
- 19 concerned with services for persons with developmental disabilities;
- 20 9. Department for Mental Health and Mental Retardation Services; and
- 21 10. Department for Public Health, Division of Adult and Child Health
- 22 Improvement.

- 23 (b) At least sixty percent (60%) of the members of the council shall be composed
 24 of persons with developmental disabilities or the parents or guardians of
 25 persons, or immediate relatives or guardians of persons with mentally
 26 impairing developmental disabilities, who are not managing employees or
 27 persons with ownership or controlling interest in any other entity that receives

1 funds or provides services under the Developmental Disabilities Act of 1984
 2 as amended and who are not employees of a state agency that receives funds
 3 or provides services under this section. Of these members, five (5) members
 4 shall be persons with developmental disabilities, and five (5) members shall
 5 be parents or guardians of children with developmental disabilities or
 6 immediate relatives or guardians of adults with mentally impairing
 7 developmental disabilities who cannot advocate for themselves. Six (6)
 8 members shall be a combination of individuals in these two (2) groups, and at
 9 least one (1) of these members shall be an immediate relative or guardian of
 10 an institutionalized or previously institutionalized person with a
 11 developmental disability or an individual with a developmental disability who
 12 resides in an institution or who previously resided in an institution.

13 (c) Members not representing principal state agencies shall be appointed for a
 14 term of three (3) years. Members shall serve no more than two (2) consecutive
 15 three (3) year terms. Members shall serve until their successors are appointed
 16 or until they are removed for cause.

17 (d) The council shall elect its own chair, adopt bylaws, and operate in accordance
 18 with its bylaws. Members of the council who are not state employees shall be
 19 reimbursed for necessary and actual expenses. The cabinet shall provide
 20 personnel adequate to insure that the council has the capacity to fulfill its
 21 responsibilities. The council shall be headed by an executive director. If the
 22 executive director position becomes vacant, the council shall be responsible
 23 for the recruitment and hiring of a new executive director.

24 (4) The Kentucky Council on Developmental Disabilities shall:

25 (a) Develop, in consultation with the cabinet, and implement the state plan as
 26 required by Part B of the Developmental Disabilities Act of 1984, as
 27 amended, with a goal of development of a coordinated consumer and family

- 1 centered focus and direction, including the specification of priority services
- 2 required by that plan;
- 3 (b) Monitor, review, and evaluate, not less often than annually, the
- 4 implementation and effectiveness of the state plan in meeting the plan's
- 5 objectives;
- 6 (c) To the maximum extent feasible, review and comment on all state plans that
- 7 relate to persons with developmental disabilities;
- 8 (d) Submit to the secretary of the cabinet, the commissioner of the Department for
- 9 Mental Health and Mental Retardation Services, and the Secretary of the
- 10 United States Department of Health and Human Services any periodic reports
- 11 on its activities as required by the United States Department of Health and
- 12 Human Services and keep records and afford access as the cabinet finds
- 13 necessary to verify the reports;
- 14 (e) Serve as an advocate for individuals with developmental disabilities and
- 15 conduct programs, projects, and activities that promote systematic change and
- 16 capacity building;
- 17 (f) Examine, not less than once every five (5) years, the provision of and need for
- 18 federal and state priority areas to address, on a statewide and comprehensive
- 19 basis, urgent needs for services, supports, and other assistance for individuals
- 20 with developmental disabilities and their families; and
- 21 (g) Prepare, approve, and implement a budget that includes amounts paid to the
- 22 state under the Developmental Disabilities Act of 1984, as amended, to fund
- 23 all programs, projects, and activities under that Act.
- 24 (5) The Kentucky Council on Developmental Disabilities shall appoint a subcommittee,
- 25 which shall include members of the Kentucky Commission on Autism Spectrum
- 26 Disorders, to monitor the implementation of the state plan as developed by the
- 27 commission beginning October 1, 2006. The subcommittee shall prepare, and the

1 council shall submit, the report as required under KRS 194A.622(10).

2 Section 119. KRS 200.700 is amended to read as follows:

- 3 (1) The Early Childhood Development Authority is established as a public agency and
 4 political subdivision of the Commonwealth with all powers, duties, and
 5 responsibilities conferred upon it by statute and essential to perform its functions
 6 including, but not limited to, employing other persons, consultants, attorneys, and
 7 agents. The authority shall be attached to the Department of Education~~[Office of~~
 8 ~~the Governor, Office of Early Childhood Development,]~~ for administrative purposes
 9 and shall establish necessary advisory councils. The authority shall have the ability
 10 to make expenditures from the early childhood development fund and shall ensure
 11 that expenditures made from the early childhood development fund are in
 12 conformance with its duties as established by the General Assembly.

- 13 (2) The authority shall consist of the following sixteen (16) members:

- 14 (a) The~~[executive]~~ director of the Division~~[Governor's Office]~~ of Early
 15 Childhood Development, who shall serve as chair;
 16 (b) The secretary of the Education~~[, Arts, and Humanities]~~ Cabinet;
 17 (c) The secretary of the Cabinet for Health and Family Services;
 18 (d) One (1) nonvoting ex officio member from the House of Representatives who
 19 shall be appointed by and serve at the pleasure of the Speaker of the House;
 20 (e) One (1) nonvoting ex officio member from the Senate who shall be appointed
 21 by and serve at the pleasure of the President of the Senate;
 22 (f) Seven (7) private sector members knowledgeable about the health, education,
 23 and development of preschool children who shall be appointed by the
 24 Governor. At least one (1) private sector member shall be appointed from
 25 each congressional district;
 26 (g) Three (3) citizens at large of the Commonwealth who shall be appointed by
 27 the Governor; and

- 1 (h) One (1) early childhood development advocate.
- 2 (3) No later than thirty (30) days after July 14, 2000, the governing bodies of each of
 3 the following organizations shall recommend three (3) persons, at least one (1) of
 4 whom shall be male and at least one (1) of whom shall be female, as candidates for
 5 initial appointment by the Governor as private sector members to the authority:
- 6 (a) The Kentucky AFL-CIO;
- 7 (b) The Kentucky Chamber of Commerce;
- 8 (c) The Kentucky League of Cities;
- 9 (d) The Kentucky Medical Association;
- 10 (e) The Louisville Urban League and Lexington Urban League;
- 11 (f) The Kentucky County Judge/Executives Association; and
- 12 (g) The Kentucky Council on Postsecondary Education.
- 13 (4) The Governor shall select the private sector members of the authority by selecting
 14 one (1) nominee from each list of the three (3) nominees submitted to the Governor
 15 by each organization listed under subsection (3) of this section. The Governor shall
 16 fill a vacancy occurring before the expiration of the appointed term from the
 17 appropriate list of nominees. If there are no nominees remaining on the appropriate
 18 list, the Governor shall request a list of additional nominees from the appropriate
 19 organization.
- 20 (5) (a) The initial terms of the private sector and citizen at-large members of the
 21 authority shall be for:
- 22 1. One (1) year for two (2) of the initial terms;
- 23 2. Two (2) years for three (3) of the initial terms;
- 24 3. Three (3) years for two (2) of the initial terms; and
- 25 4. Four (4) years for four (4) of the initial appointments.
- 26 (b) All succeeding appointments shall be for four (4) years from the expiration
 27 date of the preceding appointment.

- 1 (c) Members shall serve until a successor has been appointed.
- 2 (6) Private sector and citizen at-large members shall serve without compensation but
3 shall be reimbursed for reasonable and necessary expenses.
- 4 (7) In making appointments to the authority, the Governor shall assure broad
5 geographical, ethnic, and gender diversity representation from the major sectors of
6 Kentucky's early childhood development community. In filling vacancies, the
7 Governor shall attempt to assure the continuing representation on the authority of
8 broad constituencies of Kentucky's early childhood development community.
- 9 (8) Upon the expiration of the term of any member, the governing body of the
10 organization that made the original recommendation shall recommend three (3)
11 persons, at least one (1) of whom shall be male and at least one (1) of whom shall
12 be female, between sixty (60) and thirty (30) days before the expiration of the term
13 of any authority member who is appointed as a result of a previous
14 recommendation. The Governor shall, during March of the year that any
15 organization is to recommend three (3) persons, request the organization to
16 recommend three (3) persons for possible appointment to the authority. If there is
17 no response, the Governor shall make the appointment from the population of the
18 Commonwealth.
- 19 (9) The authority shall meet at least quarterly and at other times upon call of the chair
20 or a majority of the authority.
- 21 (10) Members of the authority shall serve on a voluntary basis, receive a fixed per diem
22 set by the authority, and be reimbursed for their expenses in accordance with state
23 travel expense and reimbursement administrative regulations.
- 24 Section 120. KRS 200.703 is amended to read as follows:
- 25 (1) The authority shall establish priorities for programs and the expenditure of funds
26 that include, but are not limited to, the following:
- 27 (a) Implementation of public health initiatives identified by the General

- 1 Assembly;
- 2 (b) Provision of preconceptional and prenatal vitamins, with priority for folic acid
- 3 for the prevention of neural tube defects;
- 4 (c) Voluntary immunization for children not covered by public or private health
- 5 insurance;
- 6 (d) Availability of high-quality, affordable early child-care and education options;
- 7 and
- 8 (e) Increased public awareness of the importance of the early childhood years for
- 9 the well-being of all Kentucky's citizens.
- 10 (2) The authority shall develop a state plan on a biennial basis that identifies early
- 11 childhood development funding priorities. Every two (2) years the authority shall
- 12 review its priorities and make necessary adjustments to its state plan. The state plan
- 13 shall incorporate priorities included in "KIDS NOW: Kentucky Invests in
- 14 Developing Success, a Report from the Governor's Early Childhood Task Force,
- 15 November 1999," and recommendations identified by the community early
- 16 childhood councils. The authority shall file a report on the state plan with the
- 17 Governor and the Legislative Research Commission by July 15 of odd-numbered
- 18 years.
- 19 (3) Programs funded by the authority shall be implemented by the appropriate agencies
- 20 within the Cabinet for Health and Family Services; the Education~~[- Arts, and~~
- 21 ~~Humanities]~~ Cabinet; the Finance and Administration Cabinet; or other appropriate
- 22 administrative agency.
- 23 (4) The authority shall assure that a public hearing is held on the expenditure of funds.
- 24 Advertisement of the public hearing shall be published at least once but may be
- 25 published two (2) more times, if one (1) publication occurs not less than seven (7)
- 26 days nor more than twenty-one (21) days before the scheduled date of the public
- 27 hearing.

- 1 (5) The authority shall promulgate administrative regulations in accordance with KRS
2 Chapter 13A to:
- 3 (a) Coordinate and improve early childhood development services, outcomes, and
4 policies;
 - 5 (b) Establish procedures that relate to its governance;
 - 6 (c) Designate service areas of the Commonwealth where the community early
7 childhood councils may be established to identify and address the early
8 childhood development needs of young children and their families for the
9 communities that they serve;
 - 10 (d) Establish procedures that relate to the monitoring of grants, services, and
11 activities of the community early childhood councils and their governance;
 - 12 (e) Establish procedures for accountability and measurement of the success of
13 programs that receive funds from the authority; and
 - 14 (f) Establish standards for the payment of funds to a designated service provider
15 and grantee of a community early childhood council. These standards shall
16 include requirements relating to:
 - 17 1. The financial management of funds paid to grantees;
 - 18 2. The maintenance of records; and
 - 19 3. An independent audit of the use of grant funds.
- 20 (6) The authority may disband or suspend a council, and may remove one (1) or more
21 members for nonperformance or malfeasance. The authority may also recover funds
22 that have been determined by the authority to have been misappropriated or
23 misspent in relation to a grant award.
- 24 (7) An appeal to the authority may be made by a council as to a decision made by the
25 authority on the disbanding or suspension of a council, service provider, or grantee
26 on a determination that funds have been misappropriated or misspent and are
27 subject to recovery. The appeal shall be conducted in accordance with KRS Chapter

1 13B.

2 (8) The authority, councils established by the authority, and initiatives funded by the
3 authority with expenditures from the early childhood development fund shall expire
4 when:

5 (a) Funds are no longer designated to the Commonwealth from the master
6 settlement agreement signed on November 22, 1998, between the participating
7 tobacco manufacturers and the forty (40) settling states or related federal
8 legislation; or

9 (b) Funds are no longer designated to the early childhood development fund from
10 gifts, grants, or federal funds to fund the authority, the councils established by
11 the authority, or any programs that had been funded by the authority with
12 expenditures from the early childhood development fund.

13 (9) (a) The authority shall establish a Healthy Babies Work Group, consisting of
14 representatives from the Cabinet for Health and Family Services; public
15 schools; local libraries; the Kentucky March of Dimes; family resource
16 centers; agencies that provide benefits under the Special Supplementation
17 Food Program for Women, Infants, and Children; the Folic Acid Awareness
18 Campaign; physicians; secondary health education and consumer sciences
19 teachers; the Spina Bifida Association of Kentucky; and other persons as
20 appropriate. Representatives shall reflect the geographic, racial, and gender
21 diversity of the Commonwealth.

22 (b) The Healthy Babies Work Group shall collaborate on development and
23 implementation of a public awareness campaign to inform the citizens of the
24 Commonwealth about the benefits of good nutrition, folic acid, smoking
25 cessation, and healthy lifestyle choices that lead to healthy babies, the effects
26 of alcohol and substance abuse on fetal and early childhood development, and
27 the need for a vision examination of children at age three (3). The work group

1 shall work with local health departments for the vision examination outreach
2 program.

3 (10) The authority shall work with local entities, including, but not limited to, health
4 departments and service providers, to establish to the extent of available funding a
5 vision examination program for children who are not eligible for the Kentucky
6 Children's Health Insurance Program or Medicaid, and who do not have insurance
7 coverage for a vision examination. The authority shall provide that primary
8 students, regardless of age, who are having difficulty with reading may be referred
9 and receive a second vision examination as described in KRS 156.160 at no cost to
10 the parent.

11 (11) The authority shall develop a request for proposal process by which local early
12 childhood councils may request any funding appropriated to the authority for use by
13 the councils.

14 Section 121. KRS 200.705 is amended to read as follows:

15 The **Department of Education**~~[Office of Early Childhood Development in the Office of~~
16 ~~the Governor]~~ shall provide staffing and administrative support to:

- 17 (1) The Early Childhood Development Authority;
- 18 (2) The Early Childhood Business Council;
- 19 (3) The Early Childhood Professional Development Council; and
- 20 (4) The Kentucky Early Intervention System Interagency Coordinating Council.

21 Section 122. KRS 200.709 is amended to read as follows:

22 (1) The Early Childhood Business Council is created and attached to the **Department of**
23 ~~**Education**~~~~[Office of Early Childhood Development, Office of the Governor,]~~ for
24 administrative purposes. The function of the council shall be to:

- 25 (a) Involve the corporate community, county judges/executive, and mayors in
- 26 supporting issues of importance to working families with young children in
- 27 the Commonwealth; and

- 1 (b) Collect and disseminate information about the various ways business and local
2 government can become involved in supporting early childhood.
- 3 (2) (a) The Early Childhood Business Council shall consist of fifteen (15) members
4 appointed by the Governor, who shall also appoint the chair. Members shall
5 serve for a term of two (2) years and until their successors are appointed and
6 qualify, except that for those members initially appointed, the terms are as
7 follows:
- 8 1. Five (5) members shall be appointed for three (3) years;
 - 9 2. Five (5) members shall be appointed for two (2) years; and
 - 10 3. Five (5) members shall be appointed for one (1) year.
- 11 (b) Vacancies shall be appointed for unexpired terms in the same manner as
12 original appointments. Members may not serve more than a total of three (3)
13 terms.
- 14 (c) Members who are eligible to be appointed shall have demonstrated an
15 investment or interest in early childhood development.
- 16 (3) Members of the Early Childhood Business Council shall serve on a voluntary basis,
17 receive a fixed per diem set by the authority, and be reimbursed for their expenses
18 in accordance with state travel expense and reimbursement administrative
19 regulations.
- 20 (4) The Early Childhood Business Council shall meet at least once every three (3)
21 months and shall make reports in accordance with requirements established by the
22 authority that include recommendations for the state plan.
- 23 Section 123. KRS 210.031 is amended to read as follows:
- 24 (1) The cabinet shall establish an advisory committee of sixteen (16) members to advise
25 the Department for Mental Health and Mental Retardation Services of the need for
26 particular services for persons who are deaf or hard-of-hearing.
- 27 (a) At least eight (8) members shall be deaf or hard-of-hearing and shall be

1 appointed by the secretary. Four (4) deaf or hard-of-hearing members,
 2 representing one (1) of each of the following organizations, shall be appointed
 3 from a list of at least two (2) nominees submitted from each of the following
 4 organizations:

- 5 1. The Kentucky Association of the Deaf;
- 6 2. The A.G. Bell Association;
- 7 3. The Kentucky School for the Deaf Alumni Association; and
- 8 4. Self Help for the Hard of Hearing.

9 The remaining four (4) deaf or hard-of-hearing members shall be appointed by
 10 the secretary from a list of at least eight (8) nominees submitted by the
 11 Kentucky Commission on the Deaf and Hard of Hearing.

12 (b) One (1) member shall be a family member of a deaf or hard-of-hearing
 13 consumer of mental health services and shall be appointed by the secretary
 14 from a list of nominees accepted from any source.

15 (c) The head of each of the following entities shall appoint one (1) member to the
 16 advisory committee:

- 17 1. The Cabinet for Health and Family Services, Department for Mental
 18 Health and Mental Retardation Services;
- 19 2. The Education Cabinet, Office~~[for Workforce Development,~~
 20 ~~Department]~~ of Vocational Rehabilitation;
- 21 3. The Cabinet for Health and Family Services, Division of Aging
 22 Services;
- 23 4. The Education~~[Arts, and Humanities]~~ Cabinet, Commission on the
 24 Deaf and Hard of Hearing;
- 25 5. The Kentucky Registry of Interpreters for the Deaf; and
- 26 6. A Kentucky School for the Deaf staff person involved in education.

27 (d) The remaining member shall be a representative of a regional mental

1 health/mental retardation board, appointed by the commissioner of the
 2 Department for Mental Health and Mental Retardation Services from a list
 3 composed of two (2) names submitted by each regional mental health/mental
 4 retardation board.

5 (2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall
 6 be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year
 7 term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall
 8 be appointed for three (3) year terms. The members defined under subsection (1)(c)
 9 and (d) of this section shall serve with no fixed term of office.

10 (3) The members defined under subsection (1)(a) and (b) of this section shall serve
 11 without compensation but shall be reimbursed for actual and necessary expenses;
 12 the members defined under subsection (1)(c) and (d) shall serve without
 13 compensation or reimbursement of any kind.

14 (4) The Department for Mental Health and Mental Retardation Services shall make
 15 available personnel to serve as staff to the advisory committee.

16 (5) The advisory committee shall meet quarterly at a location determined by the
 17 committee chair.

18 (6) (a) The advisory committee shall prepare a biennial report which:

- 19 1. Describes the accommodations and the mental health, mental
 20 retardation, development disability, and substance abuse services made
 21 accessible to deaf and hard-of-hearing persons;
- 22 2. Reports the number of deaf or hard-of-hearing persons served;
- 23 3. Identifies additional service needs for the deaf and hard-of-hearing; and
- 24 4. Identifies a plan to address unmet service needs.

25 (b) The report shall be submitted to the secretary, the commissioner of the
 26 Department for Mental Health and Mental Retardation Services, and the
 27 Interim Joint Committee on Health and Welfare by July 1 of every odd-

1 numbered year.

2 Section 124. KRS 210.502 is amended to read as follows:

- 3 (1) There is created the Kentucky Commission on Services and Supports for
 4 Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual
 5 Diagnoses. The commission shall consist of:
- 6 (a) The secretary of the Cabinet for Health and Family Services;
 - 7 (b) The secretary of the Justice Cabinet;
 - 8 (c) The commissioner of the Department for Mental Health and Mental
 9 Retardation Services;
 - 10 (d) The commissioner of the Department for Medicaid Services;
 - 11 (e) The commissioner of the Department of Corrections;
 - 12 (f) The commissioner of the Department of Juvenile Justice;
 - 13 (g) The commissioner of the Department of Education;
 - 14 (h) The executive director~~[commissioner]~~ of the Office~~[Department]~~ of
 15 Vocational Rehabilitation;
 - 16 (i) The director of the Protection and Advocacy Division of the Department of
 17 Public Advocacy;
 - 18 (j) The director of the Division of Family Resource and Youth Services Centers;
 - 19 (k) The director of the Division of Aging Services of the Cabinet for Health and
 20 Family Services;
 - 21 (l) The executive director of the Kentucky Agency for Substance Abuse Policy;
 - 22 (m) The executive director of the Criminal Justice Council;
 - 23 (n) The director of the Administrative Office of the Courts;
 - 24 (o) The chief executive officer of the Kentucky Housing Corporation;
 - 25 (p) The executive director of the Office of Transportation Delivery of the
 26 Transportation Cabinet;
 - 27 (q) The commissioner of the Department of Public Health;

- 1 (r) Three (3) members of the House of Representatives who are members of the
2 Health and Welfare Committee or the Appropriations and Revenue
3 Committee, appointed by the Speaker of the House;
- 4 (s) Three (3) members of the Senate who are members of the Health and Welfare
5 Committee or the Appropriations and Revenue Committee, appointed by the
6 Senate President;
- 7 (t) A chairperson and one (1) alternate who is a chairperson of a regional
8 planning council appointed by the secretary of the Cabinet for Health and
9 Family Services from a list of five (5) chairpersons submitted by the Kentucky
10 Association of Regional Mental Health/Mental Retardation Programs;
- 11 (u) A consumer and one (1) alternate who is a consumer of mental health or
12 substance abuse services, who is over age eighteen (18), appointed by the
13 secretary of the Cabinet for Health and Family Services from a list of up to
14 three (3) consumers submitted by any consumer advocacy organization
15 operating within Kentucky or submitted by any regional planning council
16 established under KRS 210.506; and
- 17 (v) An adult family member and one (1) alternate who is an adult family member
18 of a consumer of mental health or substance abuse services appointed by the
19 secretary of the Cabinet for Health and Family Services from a list of up to
20 three (3) persons submitted by any family advocacy organization operating
21 within Kentucky or submitted by any regional planning council established
22 under KRS 210.506.
- 23 (2) The secretary of the Cabinet for Health and Family Services and one (1) member of
24 the General Assembly appointed to the commission shall serve as co-chairs of the
25 commission.
- 26 (3) Members designated in paragraphs (a) to (s) of subsection (1) of this section shall
27 serve during their terms of office.

1 (4) Members and alternates designated in paragraphs (t) to (v) of subsection (1) of this
 2 section shall serve a term of two (2) years and may be reappointed for one (1)
 3 additional term. These members may be reimbursed for travel expenses in
 4 accordance with administrative regulations governing reimbursement for travel for
 5 state employees.

6 Section 125. KRS 210.575 is amended to read as follows:

7 (1) There is created the Kentucky Commission on Services and Supports for
 8 Individuals with Mental Retardation and Other Developmental Disabilities. The
 9 commission shall consist of:

- 10 (a) The secretary of the Cabinet for Health and Family Services;
- 11 (b) The commissioner of the Department for Mental Health and Mental
 12 Retardation Services;
- 13 (c) The commissioner of the Department for Medicaid Services;
- 14 (d) The executive director~~commissioner~~ of the Office~~Department~~ of
 15 Vocational Rehabilitation;
- 16 (e) The director of the University Affiliated Program at the Interdisciplinary
 17 Human Development Institute of the University of Kentucky;
- 18 (f) The director of the Kentucky Council on Developmental Disabilities;
- 19 (g) Two (2) members of the House of Representatives, appointed by the Speaker
 20 of the House;
- 21 (h) Two (2) members of the Senate, appointed by the Senate President; and
- 22 (i) Public members, appointed by the Governor as follows:
 - 23 1. Five (5) family members, at least one (1) of whom shall be a member of
 - 24 a family with a child with mental retardation or other developmental
 - 25 disabilities, and one (1) of whom shall be a member of a family with an
 - 26 adult with mental retardation or other developmental disabilities. Of
 - 27 these five (5) family members, at least two (2) shall be members of a

1 family with an individual with mental retardation or other
 2 developmental disabilities residing in the home of the family member or
 3 in a community-based setting, and at least two (2) shall be members of a
 4 family with an individual with mental retardation or other mental
 5 disabilities residing in an institutional residential facility that provides
 6 service to individuals with mental retardation or other developmental
 7 disabilities;

8 2. Three (3) persons with mental retardation or other developmental
 9 disabilities;

10 3. Two (2) business leaders;

11 4. Three (3) direct service providers representing the Kentucky Association
 12 of Regional Programs and the Kentucky Association of Residential
 13 Resources; and

14 5. One (1) representative of a statewide advocacy group.

15 The six (6) appointments made under subparagraphs 1. and 2. of this
 16 paragraph shall be chosen to reflect representation from each of Kentucky's
 17 six (6) congressional districts.

18 (2) The secretary of the Cabinet for Health and Family Services shall serve as chair of
 19 the commission.

20 (3) Members defined in paragraphs (a) to (h) of subsection (1) of this section shall
 21 serve during their terms of office. All public members appointed by the Governor
 22 shall serve a four (4) year term and may be reappointed for one (1) additional four
 23 (4) year term.

24 (4) All public members of the commission shall receive twenty-five dollars (\$25) per
 25 day for attending each meeting. All commission members shall be reimbursed for
 26 necessary travel and other expenses actually incurred in the discharge of duties of
 27 the commission.

1 Section 126. KRS 247.804 is amended to read as follows:

2 An Agritourism Advisory Council shall be established within the Department of
3 Agriculture to advise and assist the Office of Agritourism. The Agritourism Advisory
4 Council shall be composed of:

5 (1) One (1) representative from each of the following entities:

6 (a) Department of Agriculture, appointed by the Commissioner of Agriculture;

7 (b) Commerce Cabinet, appointed by the secretary of the cabinet;

8 (c) Education~~[, Arts, and Humanities]~~ Cabinet, appointed by the secretary of the
9 cabinet;

10 (d) Department of Fish and Wildlife Resources Commission, appointed by the
11 commissioner of the department;

12 (e) University of Kentucky Cooperative Extension Service;

13 (f) West Kentucky Corporation;

14 (g) Kentucky Tourism Council;

15 (h) Kentucky Farm Bureau;

16 (i) Kentucky Association of Fairs and Horse Shows;

17 (j) East Kentucky Corporation;

18 (k) Southern and Eastern Kentucky Tourism Development Association;

19 (l) Licking River Valley Resource Conservation and Development Council;

20 (m) Buffalo Trace Covered Bridge Authority;

21 (n) Kentucky Chamber of Commerce; and

22 (o) Kentucky Council of Area Development Districts;

23 (2) The Governor, or a designee;

24 (3) Two (2) members of the General Assembly who hold an interest in agriculture, one
25 (1) appointed by the President of the Senate and one (1) appointed by the Speaker of
26 the House of Representatives; and

27 (4) Nine (9) representatives of agriculture or the agritourism industry, appointed by the

Commissioner of Agriculture from a list of candidates compiled by the tourism regions as set forth in KRS 247.802(4). Each tourism region shall submit three (3) candidates with a business interest in agritourism who reside within that region, and the Commissioner shall appoint one (1) candidate from each region from those names submitted.

Section 127. KRS 281.870 is amended to read as follows:

(1) There is hereby created a Coordinated Transportation Advisory Committee, also known as the "CTAC", that is to be composed of designated members of the cabinet, the Cabinet for Health and Family Services and the Education~~[Workforce Development]~~ Cabinet.

(2) Members of the CTAC shall serve terms as determined by each respective cabinet. The CTAC shall meet at least once a month, but may meet more frequently if desired, and shall maintain a written record of all meetings and actions taken. In all proceedings of the CTAC and in all actions taken by the CTAC, the cabinet and the Cabinet for Health and Family Services shall each have two (2) votes and the Education~~[Workforce Development]~~ Cabinet shall have one (1) vote. A quorum of the CTAC shall be required to conduct any official business.

(3) The staff of the cabinet's Office of Transportation Delivery shall provide administrative support to the CTAC. The executive director of the Office of Transportation Delivery shall set the agenda for meetings of the CTAC. The Office of Transportation Delivery may promulgate administrative regulations under KRS Chapter 13A governing the human service transportation delivery program on behalf of the CTAC. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify the duties and responsibilities of the CTAC.

Section 128. KRS 281.872 is amended to read as follows:

(1) The cabinet shall employ a pool of program coordinators. Each program coordinator shall be a state employee and reside in the cabinet.

1 (2) The program coordinator shall initially investigate all complaints regarding
2 recipients, subcontractors, and the broker for the area and attempt to immediately
3 resolve the problem. All complaints relating to Medicaid fraud or abuse shall be
4 forwarded by the cabinet to the Cabinet for Health and Family Services. The
5 program coordinator shall further be responsible for assisting a person with a
6 complaint as required in subsection (4) of this section.

7 (3) The program coordinator shall investigate issues of eligibility that result in a person
8 being denied transportation, determine the status of the person's case, and attempt to
9 immediately resolve the matter in order for the person to continue to receive
10 transportation services. A broker shall not deny any person transportation services
11 until the program coordinator resolves the question of the person's eligibility and
12 verifies to the broker that the person is actually ineligible to receive transportation
13 services. A broker who violates the provisions of this subsection shall be fined one
14 thousand dollars (\$1,000) and shall be subject to his or her contract being revoked
15 by the cabinet. The program coordinator shall coordinate information about
16 eligibility to participate in the human service transportation delivery program
17 between the cabinet, the Cabinet for Health and Family Services, and the
18 Education~~[Workforce Development]~~ Cabinet. The cabinet shall ensure each
19 program coordinator has direct computer access to all relevant databases used by all
20 state agencies to administer the human service transportation delivery program. The
21 Department for Medicaid Services shall provide each program coordinator with a
22 monthly eligibility list for the area.

23 (4) If a program coordinator is unable to resolve a complaint against a broker or
24 subcontractor to the satisfaction of the person lodging the complaint on the same
25 business day the complaint is made, the program coordinator shall immediately act
26 to assist the person in contacting the appropriate state agency to resolve the
27 complaint. The program coordinator shall ensure that the cabinet, the Cabinet for

1 Health and Family Services, and the Education~~[Workforce Development]~~ Cabinet
 2 strictly adhere to the provisions of 42 C.F.R. governing a person's right to appeal the
 3 denial of service or failure for a complaint to be acted upon promptly. The cabinet
 4 shall be required to inform in writing, every person who has either been denied
 5 transportation or who has failed to have a complaint resolved in a prompt manner
 6 under the human service transportation delivery program, of their right to a hearing
 7 to be held in the county where the person lives, and the process to follow to obtain a
 8 hearing.

- 9 (5) All brokers and subcontractors shall be prohibited from retaliating or attempting
 10 retribution in any way against any person using the human service transportation
 11 delivery program who files a complaint. A broker or subcontractor who is
 12 determined by the cabinet to have violated the provisions of this subsection, after an
 13 investigation and hearing conducted by the cabinet, shall have his or her contract
 14 revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited
 15 from participating in the human service transportation delivery program for five (5)
 16 years from the date of the cabinet's determination.

17 Section 129. KRS 309.308 is amended to read as follows:

- 18 (1) There is hereby created a committee to be known as the "Kentucky Board of
 19 Interpreters for the Deaf and Hard of Hearing Policy Committee."
 20 (2) The committee shall consist of ten (10) members as follows:
 21 (a) The president or a designee of:
 22 1. Kentucky Association of the Deaf; and
 23 2. Kentucky Registry of Interpreters for the Deaf;
 24 (b) A representative from:
 25 1. Kentucky Commission on the Deaf and Hard of Hearing (KCDHH);
 26 2. Eastern Kentucky University Interpreter Training Program;
 27 3. Kentucky Department of Education;

- 1 4. Kentucky Office~~[Department]~~ of Vocational Rehabilitation;
- 2 5. Kentucky School for the Deaf; and
- 3 6. Cabinet for Health and Family Services; and

4 (c) Two (2) members at large, who are consumers, appointed by the board.

5 (3) The members of the committee shall receive no compensation for their services on
6 the committee. The member from the Kentucky Association of the Deaf, the
7 member from the Kentucky Registry of Interpreters for the Deaf, and the members-
8 at-large shall be reimbursed for actual and necessary expenses incurred in the
9 performance of their committee duties.

10 Section 130. KRS 314.452 is amended to read as follows:

11 (1) As used in KRS 314.450 to 314.464, "board" means the board of the Nursing
12 Workforce Foundation.

13 (2) The Nursing Workforce Foundation is created and shall be governed by a board
14 comprised of members who are residents of Kentucky appointed by the Governor.

15 (3) The foundation shall be governed by a board, the membership of which shall consist
16 of the following:

17 (a) President, or a designee, of the Kentucky Community and Technical College
18 System;

19 (b) President, or a designee, of the Association of Independent Kentucky Colleges
20 and Universities;

21 (c) President, or a designee, of the Council on Postsecondary Education;

22 (d) Secretary, or a designee, of the Education~~[Kentucky]~~ Cabinet~~[for Workforce~~
23 Development];

24 (e) Executive Director, or a designee, of the Kentucky Board of Nursing;

25 (f) President, or a designee, of the Kentucky Nurses Association;

26 (g) President, or a designee, of the Kentucky Coalition of Nurse Practitioners and
27 Nurse Midwives;

- 1 (h) President, or a designee, of the Kentucky Council of Associate Degree
2 Nursing Programs;
- 3 (i) Chair, or a designee, of the Kentucky Association of Baccalaureate and Higher
4 Degree Nursing Programs; and
- 5 (j) Two (2) members from a list of three (3) individuals recommended by the
6 Kentucky Hospital Association, with one (1) representing a rural hospital and
7 one (1) representing an urban hospital.
- 8 (4) The board shall elect a chairman from its members. The board shall meet at least
9 four (4) times a year and at the call of the chairman or a majority of the board
10 members. A majority of the board membership shall constitute a quorum.
- 11 (5) Each hospital representative appointment shall be for a term of four (4) years. A
12 vacancy on the board shall be filled by the Governor as provided under this
13 section.
- 14 (6) Members of the board shall be entitled to reimbursement for expenses when
15 carrying out official duties of the board in accordance with state administrative
16 regulations relating to travel reimbursement.
- 17 (7) The board shall employ or contract with a qualified person or nonprofit organization
18 to serve as executive director to the board and shall fix the compensation and define
19 the duties. The executive director shall be responsible for the performance of the
20 administrative functions of the board and such other duties as the board may direct.
21 The board may employ or contract with other persons as may be necessary to carry
22 on the work of the board.
- 23 (8) The board shall be a nonprofit, quasi-governmental corporation subject to the
24 Kentucky Open Records Law and Kentucky Open Meetings Law. The board shall
25 have any and all general corporate, trust, or other powers reasonable or necessary to
26 fulfill the requirements and purposes of KRS 314.450 to 314.464.
- 27 (9) The provisions of KRS 314.450 to 314.464 shall be funded by any grants, gifts, and

1 contributions received by the board or other general funds appropriated by the
2 General Assembly.

3 Section 131. KRS 314.464 is amended to read as follows:

4 Each school of nursing as defined under KRS 314.011 that is located in Kentucky,
5 whether or not awarded funding under KRS 314.450 to 314.464, shall submit an annual
6 report by August 1 to the board, the Kentucky Board of Nursing, the Council on
7 Postsecondary Education, the Education Cabinet~~[for Workforce Development]~~, and the
8 Legislative Research Commission detailing its strategies for increasing the enrollment of
9 students who graduate from the program prepared for licensure as registered nurses or
10 licensed practical nurses. Efforts undertaken by each school to increase cultural diversity
11 within its nursing students shall be included in the annual report to the board.

12 Section 132. KRS 341.005 is amended to read as follows:

13 As used in this chapter, unless the context clearly requires otherwise:

14 (1) "Cabinet" means the Education Cabinet~~[for Workforce Development]~~.

15 (2) "Secretary" means the secretary of the Education Cabinet~~[for workforce~~
16 ~~development]~~ or his or her duly authorized representative.

17 (3) "Commission" means the unemployment insurance commission.

18 Section 133. KRS 341.080 is amended to read as follows:

19 As used in this chapter, unless the context clearly requires otherwise:

20 (1) Except in so far as the Education Cabinet~~[for Workforce Development]~~ by
21 regulation prescribes the equivalent thereof to meet particular conditions:

22 (a) "Calendar year" means a year beginning on January 1; and

23 (b) "Calendar quarter" means three (3) consecutive months beginning on January
24 1, April 1, July 1, or October 1;

25 (2) "Week" means such period of seven (7) consecutive calendar days as the Education
26 Cabinet~~[for Workforce Development by]~~ regulation prescribes; and

27 (3) "Week of unemployment" means any period of seven (7) consecutive days, as

1 prescribed by the Education Cabinet in administrative~~[for Workforce~~
 2 ~~Development]~~ regulations, during which a worker performed less than full-time
 3 work and earned less than an amount equal to one and one-fourth (1-1/4) times the
 4 benefit rate determined for him in accordance with the provisions of subsection (2)
 5 of KRS 341.380.

6 Section 134. KRS 341.110 is amended to read as follows:

7 (1) In the Education Cabinet~~[for Workforce Development]~~ there shall be an
 8 Unemployment Insurance Commission composed of the secretary or his or her duly
 9 authorized representative, as ex officio chairman and two (2) members appointed by
 10 the Governor.

11 (2) The secretary shall represent the state and the public. One (1) member shall be
 12 appointed as a representative of labor and one (1) as a representative of employers.
 13 The chairman and one (1) other member of the commission shall constitute a
 14 quorum.

15 (3) The members representing labor and employers shall be appointed on the basis of
 16 their merit and fitness to perform their duties and exercise the responsibilities of
 17 their offices. They shall be citizens of this state and not less than thirty (30) years of
 18 age.

19 (4) The terms of each member appointed to represent labor and employers shall be for
 20 four (4) years from the date of appointment and until a successor is appointed and
 21 qualified, except that appointments to vacancies shall be for the unexpired term.

22 (5) The compensation of the members representing labor and employers shall be
 23 \$12,000 each per annum.

24 Section 135. KRS 341.125 is amended to read as follows:

25 (1) It shall be the duty of the secretary of the Education Cabinet to administer this
 26 chapter; and he shall have power and authority to make such expenditures, require
 27 such reports, make such investigations, and take such other action, not specifically

1 assigned to the Cabinet~~[for Workforce Development]~~, as he or she deems
2 necessary for the proper administration of this chapter.

3 (2) The secretary is authorized, subject to the provisions of KRS Chapters 12, 42, 45,
4 and 45A, to appoint, fix the compensation and prescribe duties and powers of such
5 officers and employees as may be necessary in the performance of his or her duties
6 under this chapter. All positions shall be filled by persons selected and appointed on
7 a nonpartisan merit basis. The secretary shall not employ or pay any person who is
8 an officer or committee member of any political party organization. The secretary
9 may delegate to any such person so appointed such power and authority as he or she
10 deems reasonable and proper for the effective administration of this chapter.

11 (3) The salary and expenses of the secretary and his or her staff shall be considered a
12 proper cost of the administration of this chapter, to be charged to the unemployment
13 compensation administration fund in that proportion which the cost of such services
14 rendered in the administration of this chapter bears to the overall cost of the services
15 rendered in the administration of the cabinet.

16 (4) The secretary shall submit to the Governor an annual report covering the
17 administration and operation of this chapter and make such recommendations for
18 amendments to this chapter as he or she deems proper.

19 (5) In the administration of this chapter the secretary shall cooperate to the fullest
20 extent possible with any agency of this state or any other state or of the United
21 States and shall take such action, through the adoption of appropriate rules,
22 regulations, administrative methods, and standards, as may be necessary to secure
23 for this state and its citizens all the advantages available under the provisions of the
24 Social Security Act, as amended, that relate to unemployment compensation, the
25 Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended,
26 and the Federal-State Extended Unemployment Compensation Act of 1970.

27 Section 136. KRS 341.145 is amended to read as follows:

- 1 (1) The secretary of the Education Cabinet may enter into arrangements with the
2 appropriate agencies of other states or of the federal government, or both, for the
3 purpose of assisting the secretary and such agencies in the payment of benefits and
4 the furnishing of services to unemployed or underemployed workers. Such
5 arrangements may provide that the respective agencies shall, for and on behalf of
6 each other, act as agents in effecting registrations for work, notices of
7 unemployment, and any other certifications or statements relating to a worker's
8 claim for benefits; in making investigations, taking depositions, holding hearings, or
9 otherwise securing information relating to benefit eligibility and payments; and in
10 such other matters as the secretary considers suitable in effectuating the purpose of
11 these administrative arrangements.
- 12 (2) The secretary may enter into arrangements with the appropriate agencies of other
13 states or the federal government whereby workers performing services in this and
14 other states for a single employing unit under circumstances not specifically
15 provided in KRS 341.050, or under similar provisions in the unemployment
16 compensation laws of such other states, shall be deemed to be engaged in
17 employment performed entirely within this state or within one of such other states.
- 18 (3) (a) The secretary shall participate in any arrangements for the payment of benefits
19 on the basis of combining an individual's wages and employment covered
20 under this chapter with his wages and employment covered under the
21 unemployment compensation laws of other states or the federal government
22 which are approved by the United States Secretary of Labor in consultation
23 with the state unemployment compensation agencies as reasonably calculated
24 to assure the prompt and full payment of benefits in such situations and which
25 include provisions for applying the base period of a single state law to a claim
26 involving the combining of an individual's wages and employment covered
27 under two (2) or more state unemployment compensation laws, and avoiding

1 the duplicate use of wages and employment by reason of such combining.
2 Reimbursements to another state or the federal government, paid from the
3 fund pursuant to this subsection, shall be deemed to be benefits for the
4 purposes of this chapter and charged to contributory employers' reserve
5 accounts and reimbursing employers' accounts in accordance with the
6 provisions of subsections (2) and (3) of KRS 341.530 to the extent of
7 calculations made on wages paid during the base period established by KRS
8 341.090 and wages paid after such base period; provided, however, benefits
9 based on a period previous to the base-wage period established by KRS
10 341.090 shall be charged to the pooled account for contributing employers
11 only. Provided, that if the Secretary of Labor determines that the charging of
12 reimbursements provided above is inconsistent with the requirements of the
13 Federal Unemployment Tax Act, charges of such reimbursements shall then
14 be made in accordance with regulations prescribed by the secretary.

15 (b) In order that such reciprocal arrangements, when entered into, may be
16 effectuated, wages for insured work under an employment security law of
17 another state or of the federal government shall be deemed to be wages earned
18 in covered employment from a subject employer for the purpose of
19 determining his benefits under this chapter.

20 (4) Notwithstanding any other provision of this chapter, benefits shall not be denied or
21 reduced to an individual solely because he files a claim in another state (or a
22 contiguous country with which the United States has an agreement with respect to
23 unemployment compensation) or because he resides in another state (or such a
24 contiguous country) at the time he files a claim for benefits.

25 (5) To the extent permissible under the laws and Constitution of the United States, the
26 secretary is authorized to enter into or cooperate in arrangements or reciprocal
27 agreements with appropriate and duly authorized agencies of other states or the

1 United States Secretary of Labor or both, whereby:

- 2 (a) Overpayments of unemployment benefits, as determined under this chapter,
 3 shall be recoverable (after due notice and opportunity for appeal has been
 4 provided to the claimant) by offset from unemployment benefits otherwise
 5 payable under the unemployment compensation law of another state, in either
 6 the current or any subsequent benefit year, in an amount equivalent to the
 7 amount of overpayment determined under this chapter, provided the Office of
 8 Employment and Training, Department of Workforce
 9 Investment,~~[department]~~ certifies to the other state the facts involved and that
 10 the claimant is liable to repay the benefits and the office~~[department]~~ requests
 11 the other state to recover the benefits; and
- 12 (b) Overpayments of unemployment benefits, as determined under the
 13 unemployment compensation law of another state, shall be recoverable (after
 14 such state has provided due notice and opportunity for appeal to the claimant)
 15 by offset from unemployment benefits otherwise payable under this chapter, in
 16 either the current or subsequent benefit year, in an amount equivalent to the
 17 amount of overpayment determined by such other state, provided such state
 18 certifies to the office~~[department]~~ the facts involved and that the individual is
 19 liable to repay the benefits and the state requests the office~~[department]~~ to
 20 recover the benefits; and
- 21 (c) Provided there is in effect a reciprocal agreement between this state and the
 22 United States Secretary of Labor, as authorized by Section 303(g)(2) of the
 23 Social Security Act, the overpayment of unemployment benefits or allowances
 24 for unemployment provided under a federal program administered by this state
 25 shall be recoverable by offset from benefits otherwise payable under this
 26 chapter or any such federal program. Such agreement shall also suffice to
 27 permit the offset from unemployment benefits, otherwise payable under a

1 federal program administered by this state, the overpayment of unemployment
2 benefits paid under this chapter.

3 If another state also has in effect a like agreement with the United States Secretary
4 of Labor, then these provisions for cross-offset of state and federal unemployment
5 benefits shall apply to benefits otherwise payable under this chapter, the laws of the
6 other state or any federal unemployment program administered by either state.

7 Section 137. KRS 341.190 is amended to read as follows:

8 (1) Each employing unit shall keep true and accurate work records of all workers
9 employed by it, of the wages paid by it to each worker, and such other information
10 as the secretary *of the Education Cabinet*~~[for workforce development]~~ considers
11 necessary for the proper administration of this chapter. The records shall be open for
12 inspection and subject to being copied by the secretary or his *or her* authorized
13 representatives at any reasonable time and as often as necessary.

14 (2) The secretary~~[for workforce development]~~ may require any employing unit to
15 furnish to the cabinet at its central office from time to time information concerning
16 the total amounts of wages paid, total number of persons employed, an individual
17 record of each worker employed, an individual record of each worker whose
18 employment has been terminated or who has been laid off, an individual wage and
19 hour record of each worker employed part time entitled to benefits, and other related
20 matters, including hours worked, which the secretary~~[for workforce development]~~
21 considers necessary to the effective administration of this chapter.

22 (3) Information obtained from an employing unit or individual and other records made
23 by the cabinet in the administration of this chapter are confidential and shall not be
24 published or be open for public inspection, except as provided below:

25 (a) Information may be made available to public employees in the performance of
26 their duties, but the agency receiving the information shall assure the
27 confidentiality, as provided for in this section, of all information so released.

- 1 (b) A claimant or employing unit or his legal representative shall be provided
2 upon request information or records maintained by the cabinet in the
3 administration of his claim, his reserve account, his reimbursing employer
4 account, or any proceeding under this chapter to which he is a party.
- 5 (c) Statistical information derived from information and records obtained or made
6 by the cabinet may be published, if it in no way reveals the identity of any
7 claimant or employing unit.
- 8 (d) Nothing in this section shall preclude the secretary or any employee of the
9 cabinet from testifying in any proceeding under this chapter or in any court, or
10 from introducing as evidence information or records obtained or made by the
11 cabinet in an action for violation of state or federal law to which the cabinet is
12 a party or upon order of the court.
- 13 (4) No information or records held confidential under subsection (3) of this section
14 shall be the subject matter or basis for any suit for slander or libel in any court, but
15 no employer or employee, or his representative, testifying before the commission,
16 the secretary, or any duly authorized representative thereof, shall be exempt from
17 punishment for perjury.
- 18 Section 138. KRS 341.200 is amended to read as follows:
- 19 (1) In the discharge of the duties imposed by this chapter members of the commission,
20 the secretary or any duly authorized representative thereof, may administer oaths
21 and affirmations, take depositions, certify official acts, and issue subpoenas to
22 compel the attendance of witnesses and the production of books, papers,
23 correspondence, memoranda, and other records considered necessary and relevant
24 as evidence in connection with the administration of this chapter. Such subpoena
25 shall be served in the same manner as a subpoena issued out of a Circuit Court, and
26 the sheriff shall receive the same fee as provided by law for like service in civil
27 actions. Witnesses subpoenaed shall be allowed witnesses' fees according to the

1 rates prescribed by KRS 421.015 for each day their attendance is actually required
2 at a hearing.

3 (2) The secretary or the commission, or any of their authorized
4 representatives~~[representative of the secretary]~~, shall have the power, in any and all
5 counties of this Commonwealth, now granted by law to sheriffs within their
6 respective jurisdictions, to execute and make due return of all notices, summonses,
7 including summonses duces tecum, subpoenas, and executions in respect to all court
8 actions instituted to enforce the provisions of this chapter. ~~[Neither]~~ The secretary, a
9 member of the commission, or any of their authorized representatives~~[nor his~~
10 ~~authorized representative]~~ shall not be deemed to be an interested party in the action
11 by reason of his official or representative capacity.

12 Section 139. KRS 341.230 is amended to read as follows:

13 The secretary may authorize the destruction of such original reports and records as have
14 been properly recorded and summarized in the permanent records of the Education
15 ~~Cabinet~~~~[for Workforce Development]~~ or are no longer considered necessary for the
16 proper administration of this chapter. Wage records of the individual worker or
17 transcripts thereof may be destroyed or disposed of two (2) years after the expiration of
18 the period covered by them or upon proof of death of the worker. Such destruction or
19 disposition shall be made only by order of the secretary. Any money received from the
20 disposition of such records shall be deposited to the credit of the unemployment
21 compensation administration fund.

22 Section 140. KRS 341.243 is amended to read as follows:

23 (1) There is created within the State Treasury a special fund known as the service
24 capacity upgrade fund that shall be administered separate and apart from all public
25 money or funds of the state.

26 (2) The service capacity upgrade fund shall be used solely for acquisition and
27 upgrading of the technology base, program integrity functions, and service delivery

1 capacity in support of the programs administered by the Office of~~Department for~~
 2 Employment and Training~~Services~~. The secretary shall have full power,
 3 authority, and jurisdiction over the fund, including all money, property, and
 4 securities belonging thereto, and shall perform any act necessary or convenient in
 5 the administration of the fund consistent with this section. The secretary shall
 6 provide an annual report to the Interim Joint Committee on Labor and Industry
 7 detailing all receipts and expenditures of the fund.

8 (3) Any money collected under the provisions of this section shall be invested at
 9 interest in banks or other interest-bearing obligations of the United States.
 10 Investments shall at all times be made so that all the assets of the service capacity
 11 upgrade fund shall be convertible into cash when needed for the payment of
 12 expenses incurred in upgrading the service capacity of the Office of~~Department~~
 13 ~~for~~ Employment and Training~~Services~~. All interest income received under this
 14 section shall be credited to the fund. The State Treasurer shall dispose of securities
 15 or other property belonging to the fund only under the direction of the secretary and
 16 the secretary of the Finance and Administration Cabinet.

17 (4) Effective January 1, 1999, all rates otherwise established under KRS 341.270 and
 18 341.272 shall be reduced by subtracting seventy-five thousandths percent (0.075%)
 19 from each rate, but only if the trust fund balance as of December 31 of the
 20 preceding year is equal to or greater than one and eighteen hundredths percent
 21 (1.18%) of the total wages paid in the state during the state fiscal year ended as of
 22 June 30 of that year.

23 (a) If the trust fund balance as of December 31, 1999, is less than the trust fund
 24 balance as of December 31, 1998, the amount of the rate reduction for
 25 calendar year 2000 shall be reduced by forty percent (40%) to the level of
 26 forty-five thousandths percent (0.045%).

27 (b) If the trust fund balance as of December 31, 2000, is less than the trust fund

1 balance as of December 31, 1999, the amount of the rate reduction for
2 calendar year 2001 shall be forty percent (40%) less than the amount of the
3 rate reduction which was in effect in calendar year 2000.

4 (5) For any calendar year in which all rates have been reduced in accordance with
5 subsection (4) of this section, all contributory employers shall pay into the service
6 capacity upgrade fund an amount equal to the percentage by which rates were
7 reduced multiplied by their taxable wages paid during that calendar year. Payments
8 shall be made at the same time and in the same manner as prescribed for payment of
9 contributions under KRS 341.260 and all regulations prescribed by the secretary in
10 support of that section. The restrictions in KRS 341.470(1) apply equally to the
11 provisions of this section. Failure to make these payments shall be subject to
12 interest and all other collection actions provided for failure to make contributions
13 under KRS 341.300.

14 (6) All payments required under subsection (5) of this section, along with any interest
15 due to late payment of these assessments, shall be deposited in the service capacity
16 upgrade fund.

17 (7) The provisions of this section shall expire with regard to rates assigned for calendar
18 years beginning after December 31, 2001, and any balance of moneys or property in
19 the fund not expended or obligated for purposes consistent with this section by June
20 30, 2002, shall be deposited in the unemployment insurance trust fund.

21 Section 141. KRS 341.245 is amended to read as follows:

22 Subject to the provisions of KRS 56.440 to 56.550, inclusive, the secretary of the
23 Education Cabinet is authorized and empowered to use all or any part of the funds
24 accumulated under the provisions of KRS 341.295 for the purpose of acquiring suitable
25 space for either central or district offices of the cabinet by way of purchase, lease,
26 contract, or in any other manner including the right to use said funds or any part thereof to
27 assist in financing the construction of any building erected by the Commonwealth or any

1 of its agencies wherein available space will be provided for the cabinet under lease or
 2 contract between the cabinet and the Commonwealth or such other agency whereby said
 3 cabinet will continue to occupy such space, rent free, after the cost of financing such
 4 building has been liquidated.

5 Section 142. KRS 341.250 is amended to read as follows:

- 6 (1) Any employing unit that becomes subject to this chapter within any calendar year
 7 shall be considered a subject employer during the whole of that calendar year,
 8 except as specifically provided elsewhere in this section or this chapter.
- 9 (2) Except as provided in subsections (3) and (5) of this section, a subject employer
 10 shall cease to be a subject employer only as of the first day of January of any
 11 calendar year if he files with the Office of Employment and Training, Department
 12 of Workforce Investment~~[department]~~, on or before the fifteenth day of April of
 13 that year, a written application for termination of coverage, and the covered
 14 employment performed for such subject employer within the preceding calendar
 15 year was not sufficient to render an employing unit a subject employer under KRS
 16 341.070. The secretary may, however, after notifying such employer in writing at
 17 his last known address, terminate the coverage of any subject employer as of the
 18 first day of January of any calendar year if such subject employer has had no
 19 individuals in covered employment in this state at any time during the three (3)
 20 preceding calendar years, and the balance of such employer's reserve account may
 21 be immediately transferred to the pooled account.
- 22 (3) (a) Any employing unit not otherwise subject to this chapter that files with the
 23 office~~[department]~~ its written election to become a subject employer for not
 24 less than two (2) calendar years shall, with the written approval of such
 25 election by the secretary, become subject hereto to the same extent as all other
 26 subject employers, as of the date stated in such approval, but not with respect
 27 to the period previous to such date. Such subject employer shall cease to be

1 subject hereto as of January 1 of any calendar year subsequent to such two (2)
 2 calendar years, only if on or before April 15 of such year, it has filed with the
 3 office[department] a written notice to that effect.

4 (b) Any employing unit for which services that do not constitute covered
 5 employment are performed may file with the office[department] a written
 6 election that all such services performed by individuals in its employ in one
 7 (1) or more distinct establishments or places of business shall be considered to
 8 constitute covered employment by a subject employer for all the purposes of
 9 this chapter for not less than two (2) calendar years. Upon written approval of
 10 such election by the secretary, such services shall be considered to constitute
 11 covered employment from and after the date stated in such approval, but not
 12 with respect to the period previous to such date. Such services shall cease to
 13 be considered covered employment subject hereto as of January 1 of a
 14 calendar year subsequent to such two (2) calendar years, only if on or before
 15 April 15 of such year such employing unit has filed with the
 16 office[department] a written notice to that effect.

17 (c) Any employing unit having service performed in covered employment solely
 18 by reason of paragraph (h) of subsection (1) of KRS 341.050 may terminate
 19 such service as "covered employment" as of the first day of January of any
 20 calendar year if such service does not meet the provisions of paragraph (e), (f)
 21 or (g), but only if on or before April 15 of such year, the employing unit has
 22 filed with the office[department] a written request to terminate service as
 23 "covered employment."

24 (4) An employing unit that becomes a subject employer under subsection (7) of KRS
 25 341.070, shall become subject as of the date of acquisition.

26 (5) Notwithstanding the provisions of subsections (1), (2), and (3) of this section, any
 27 subject employer whose entire reserve account has been transferred to a successor in

1 interest as provided for in KRS 341.540 shall immediately cease to be a subject
 2 employer and shall thereafter become a subject employer only upon his future
 3 employment experience.

4 Section 143. KRS 341.260 is amended to read as follows:

- 5 (1) Contributions shall accrue and become payable by each subject employer for each
 6 calendar year in which he is subject to this chapter. Such contributions shall be
 7 based upon wages paid during such calendar year for covered employment. Such
 8 contributions shall become due and be paid at the offices of the Office of
 9 Employment and Training, Department of Workforce Investment~~[department]~~ in
 10 Frankfort by each subject employer to the office~~[department]~~ for the fund in
 11 accordance with such regulations as the secretary prescribes, and shall not be
 12 deducted in whole or in part from the wages of workers in his employ. In the
 13 payment of any contributions, a fractional part of a cent shall be disregarded, unless
 14 it amounts to one-half cent (\$0.005) or more, in which case it shall be increased to
 15 one cent (\$0.01).

- 16 (2) Any contractor, who is or becomes a subject employer under the provisions of this
 17 chapter, who contracts with any subcontractor, who also is or becomes a subject
 18 employer under the provisions of this chapter, shall withhold sufficient moneys on
 19 said contract to guarantee that all contributions, penalties, and interest are paid upon
 20 completion of said contract, or shall require of said subcontractor a good and
 21 sufficient bond guaranteeing payment of all contributions, penalties, and interest
 22 due, or to become due with respect to wages paid for employment on said contract.
 23 Failure to comply with the provisions of this section shall render said contractor
 24 directly liable for such contributions, penalties, and interest due from said
 25 subcontractor and the wages paid by said subcontractor shall be deemed wages paid
 26 by the said contractor with respect to the same periods for all purposes under this
 27 chapter, and liens of the same nature are attachable and enforceable in the same

1 manner as liens under KRS 341.310 and 341.315. A person, employing unit, or
 2 entity that enters into a verbal or written agreement with another, or between which
 3 there exists an implied contract based upon the circumstances, conduct, or acts or
 4 relations of the parties:

- 5 (a) To have work performed consisting of the removal, excavation or drilling of
 6 soil, rock, or mineral, or the cutting or removal of timber from land, or
- 7 (b) To have work performed of a kind which is a customary or a recurrent part of
 8 the work of the trade, business, occupation, or profession of such person or
 9 entity, shall for the purposes of this subsection be deemed a contractor, and
 10 such other person or entity a subcontractor. This subsection shall not apply to
 11 the owner or lessee of land principally used for agriculture.

12 Section 144. KRS 341.270 is amended to read as follows:

- 13 (1) Except as otherwise provided in this section, each employer's contribution rate shall
 14 be three percent (3%). Effective for employers who become subject to this chapter
 15 on or after January 1, 1999, except as otherwise provided in this section, each
 16 employer's contribution rate shall be two and seven-tenths percent (2.7%).
- 17 (2) Except as otherwise provided in this section, no subject employer's contribution rate
 18 shall be less than two and seven-tenths percent (2.7%), unless he has been an
 19 employer subject to the provisions of this chapter for twelve (12) consecutive
 20 calendar quarters ended as of the computation date. In any calendar year in which
 21 the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no
 22 subject employer who was assigned an entry rate of three percent (3.0%) under the
 23 provisions of subsection (1) of this section prior to January 1, 1999, shall have a
 24 contribution rate less than two and eight hundred fifty-seven thousandths percent
 25 (2.857%), unless subject to this chapter for the minimum time period specified
 26 above.
- 27 (3) For the calendar year 2001 and each calendar year thereafter, employer contribution

1 rates shall be determined in accordance with "Table A" set out in subsection (4) of
 2 this section. For each calendar year, the secretary shall determine the rate schedule
 3 to be in effect based upon the "trust fund balance" as of December 31 of the
 4 preceding year. If the "trust fund balance":

5 (a) Equals or exceeds one and eighteen hundredths percent (1.18%) of the total
 6 wages paid in covered employment in the state during the state fiscal year
 7 ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy
 8 Rates" schedule of "Table A" shall be in effect.

9 (b) Equals or exceeds three hundred fifty million dollars (\$350,000,000) but is
 10 less than the amount required to effectuate the "Trust Fund Adequacy Rates"
 11 schedule as provided in paragraph (a) of this subsection, the rates listed in
 12 "Schedule A" of "Table A" shall be in effect.

13 (c) Equals or exceeds two hundred seventy-five million dollars (\$275,000,000)
 14 but is less than three hundred fifty million dollars (\$350,000,000), the rates
 15 listed in "Schedule B" of "Table A" shall be in effect.

16 (d) Equals or exceeds two hundred fifty million dollars (\$250,000,000) but is less
 17 than two hundred seventy-five million dollars (\$275,000,000), the rates listed
 18 in "Schedule C" of "Table A" shall be in effect.

19 (e) Equals or exceeds one hundred fifty million dollars (\$150,000,000) but is less
 20 than two hundred fifty million dollars (\$250,000,000), the rates listed in
 21 "Schedule D" of "Table A" shall be in effect.

22 (f) Is less than one hundred fifty million dollars (\$150,000,000), the rates listed in
 23 "Schedule E" of "Table A" shall be in effect.

24 (4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall
 25 be determined upon the basis of an individual employer's reserve ratio as of the
 26 computation date and the schedule of rates established under subsection (3) of this
 27 section. Except as otherwise provided in this section, the contribution rate for each

subject employer for the calendar year immediately following the computation date shall be the rate in that "Schedule" of "Table A," as set out below, effective with respect to the calendar year, which appears on the same line as his reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A

Rate Schedule

7	Employer Trust	A	B	C	D	E	
8	Reserve Fund						
9	Ratio Adequacy						
10	Rates						
11	8.0% and						
12	over	0.000%	0.30%	0.40%	0.50%	0.60%	1.00%
13	7.0% but						
14	under 8.0%	0.000%	0.40%	0.50%	0.60%	0.80%	1.05%
15	6.0% but						
16	under 7.0%	0.008%	0.50%	0.60%	0.70%	0.90%	1.10%
17	5.0% but						
18	under 6.0%	0.208%	0.70%	0.80%	1.00%	1.20%	1.40%
19	4.6% but						
20	under 5.0%	0.508%	1.00%	1.20%	1.40%	1.60%	1.80%
21	4.2% but						
22	under 4.6%	0.808%	1.30%	1.50%	1.80%	2.10%	2.30%
23	3.9% but						
24	under 4.2%	1.008%	1.50%	1.70%	2.20%	2.40%	2.70%
25	3.6% but						
26	under 3.9%	1.308%	1.80%	1.80%	2.40%	2.60%	3.00%
27	3.2% but						

1	under 3.6%	1.508%	2.00%	2.10%	2.50%	2.70%	3.10%
2	2.7% but						
3	under 3.2%	1.608%	2.10%	2.30%	2.60%	2.80%	3.20%
4	2.0% but						
5	under 2.7%	1.708%	2.20%	2.50%	2.70%	2.90%	3.30%
6	1.3% but						
7	under 2.0%	1.808%	2.30%	2.60%	2.80%	3.00%	3.40%
8	0.0% but						
9	under 1.3%	1.908%	2.40%	2.70%	2.90%	3.10%	3.50%
10	-0.5% but						
11	under -0.0%	6.500%	6.50%	6.75%	7.00%	7.25%	7.50%
12	-1.0% but						
13	under -0.5%	6.750%	6.75%	7.00%	7.25%	7.50%	7.75%
14	-1.5% but						
15	under -1.0%	7.000%	7.00%	7.25%	7.50%	7.75%	8.00%
16	-2.0% but						
17	under -1.5%	7.250%	7.25%	7.50%	7.75%	8.00%	8.25%
18	-3.0% but						
19	under -2.0%	7.500%	7.50%	7.75%	8.00%	8.25%	8.50%
20	-4.0% but						
21	under -3.0%	7.750%	7.75%	8.00%	8.25%	8.50%	8.75%
22	-6.0% but						
23	under -4.0%	8.250%	8.25%	8.50%	8.75%	9.00%	9.25%
24	-8.0% but						
25	under -6.0%	8.500%	8.50%	8.75%	9.00%	9.25%	9.50%
26	Less						
27	than -8.0%.	9.000%	9.00%	9.25%	9.50%	9.75%	10.00%

1 (5) As used in this section and elsewhere in this chapter, unless the context clearly
2 requires otherwise:

3 (a) "Trust fund balance" means the amount of money in the unemployment
4 insurance fund, less any unpaid advances made to the state under Section 1201
5 of the Social Security Act. In determining the amount in the fund as of a given
6 date all money received by the Office of Employment and Training,
7 Department of Workforce Investment,~~[department]~~ on that date shall be
8 considered as being in the fund on that date.

9 (b) "Total wages" means all remuneration for services, as defined in KRS
10 341.030(1) to (7), paid by subject employers.

11 (c) An employer's "reserve ratio" means the percentage ratio of his reserve
12 account balance as of the computation date to his taxable payrolls for the
13 twelve (12) consecutive calendar quarters ended as of September 30
14 immediately preceding the computation date.

15 (d) For the purposes of this section, an employer's "reserve account balance"
16 means the amount of contributions credited to his reserve account as of the
17 computation date, less the benefit charges through September 30 immediately
18 preceding the computation date. If benefits charged to an account exceed
19 contributions credited to the account, the account shall be considered as
20 having a debit balance and a reserve ratio of "less than zero."

21 (e) "Computation date" is October 31 of each calendar year prior to the effective
22 date of new rates of contributions.

23 Section 145. KRS 341.275 is amended to read as follows:

24 (1) For the purpose of this section, a nonprofit organization is an organization (or group
25 of organizations) described in Section 501(c)(3) of the United States Internal
26 Revenue Code which is exempt from income tax under Section 501(a) of such code.
27 For the purpose of this section, "cabinet" shall mean the Education Cabinet~~for~~

1 ~~Workforce Development]~~ and "secretary" shall mean the secretary of the Education
 2 Cabinet~~for workforce development]~~.

3 (2) Any nonprofit organization which, pursuant to KRS 341.070(4), is, or becomes, a
 4 subject employer shall pay contributions under the provisions of KRS 341.270,
 5 unless it elects, in accordance with this section, to pay to the cabinet for the fund an
 6 amount equal to the amount of regular benefits and of one-half (1/2) of the extended
 7 benefits paid to workers for weeks of unemployment that is attributable to service in
 8 the employ of the nonprofit organization, performed during the effective period of
 9 the election but only if the employer is the worker's most recent employer. No
 10 employer shall be deemed to be the most recent employer unless the eligible worker
 11 to whom benefits are payable shall have worked for that employer in each of ten
 12 (10) weeks whether or not consecutive.

13 (a) Any nonprofit organization which is, or becomes, a subject employer on July
 14 1, 1972, may elect to become liable for payments in lieu of contributions for a
 15 period of not less than the remainder of 1972 and the calendar year of 1973,
 16 provided it files with the cabinet a written notice of its election within the
 17 thirty (30) day period immediately following such date.

18 (b) Any nonprofit organization which becomes a subject employer after July 1,
 19 1972, may elect to become liable for payments in lieu of contributions for a
 20 period of not less than the period of subjectivity during the year in which such
 21 subjectivity begins and the following calendar year by filing a written notice
 22 of its election with the cabinet not later than thirty (30) days immediately
 23 following the date of the determination of such subjectivity.

24 (c) Any nonprofit organization which makes an election in accordance with
 25 paragraph (a) or paragraph (b) of this subsection will continue to be liable for
 26 payments in lieu of contributions until it files with the secretary a written
 27 notice terminating its election not later than thirty (30) days prior to the

1 beginning of the calendar year for which such termination shall first be
2 effective, except that liability for payments in lieu of contributions shall
3 continue thereafter with respect to wages paid prior to the effective date of
4 such termination.

5 (d) Any nonprofit organization which has been paying contributions under this
6 chapter for a period subsequent to July 1, 1972, may change to a reimbursable
7 basis by filing with the cabinet not later than thirty (30) days prior to the
8 beginning of any calendar year a written notice of election to become liable
9 for payments in lieu of contributions. Such election shall not be terminable by
10 such organization for that and the following year.

11 (e) The secretary may for good cause extend the period within which a notice of
12 election, or a notice of termination, must be filed and may permit an election
13 to be retroactive but not any earlier than with respect to benefits paid after
14 December 31, 1969.

15 (f) The secretary shall notify each nonprofit organization of any determination
16 which may be made of its status as an employer and of the effective date of
17 any election which it makes and of any termination of such election. Such
18 determinations shall be subject to appeal and review in accordance with the
19 provisions of KRS 341.430(2).

20 (3) Payments in lieu of contributions shall be made in accordance with the provisions
21 of this subsection.

22 (a) At the end of each calendar quarter, the cabinet shall bill each nonprofit
23 organization (or group of such organizations) which has elected to make
24 payments in lieu of contributions for an amount equal to the full amount of
25 regular benefits plus one-half (1/2) of the amount of extended benefits paid
26 during such quarter plus any prior period adjustments, which are attributable
27 to service performed in covered employment in the employ of such

- 1 organization.
- 2 (b) Payment of any bill rendered under paragraph (a) shall be made not later than
3 thirty (30) days after such bill was mailed to the last known address of the
4 nonprofit organization or was otherwise delivered to it, unless there has been
5 an application for review in accordance with paragraph (d) of this subsection.
- 6 (c) Payments made by any nonprofit organization under the provisions of this
7 subsection shall not be deducted or deductible, in whole or in part, from the
8 remuneration of workers in the employ of the organization.
- 9 (d) The amount due specified in any bill from the secretary shall be conclusive on
10 the organization unless, not later than fifteen (15) days after the bill was
11 mailed to its last known address or otherwise delivered to it, the organization
12 files an appeal to the commission~~[cabinet]~~, setting forth the grounds for such
13 appeal. Proceedings on appeal to the commission~~[cabinet]~~ from the amount of
14 a bill rendered under this subsection shall be in accordance with the
15 provisions of KRS 341.430 and the decision of the commission~~[cabinet]~~ shall
16 be subject to review under the provisions of KRS 341.460(1).
- 17 (e) Past-due payments of amounts in lieu of contributions shall be subject to the
18 same interest, penalties, collection service, and lien provisions that, pursuant
19 to KRS 341.300 to 341.310, apply to past-due contributions.
- 20 (4) (a) The secretary may, in accordance with regulations prescribed by the cabinet,
21 require any nonprofit organization that elects to become liable for payments in
22 lieu of contributions to deposit with the cabinet, within thirty (30) days after
23 the effective date of its election as a condition thereof, money equal to two
24 percent (2%) of the organization's total wages paid for employment as defined
25 in KRS 341.050(1)(e) for the four (4) calendar quarters immediately preceding
26 the effective date of such election. If the nonprofit organization did not pay
27 wages in each of such four (4) calendar quarters, the amount of the deposit

1 shall be as determined by the secretary.

2 (b) Money deposited in accordance with this subsection shall be retained by the
3 cabinet in an escrow account until all possible liability to the fund under the
4 election is terminated, at which time it shall be returned to the organization,
5 less any deductions as hereinafter provided. The cabinet may deduct from the
6 money deposited under this subsection by a nonprofit organization to the
7 extent necessary to satisfy any due and unpaid payments in lieu of
8 contributions and any applicable interest and penalties provided for in
9 paragraph (e) of subsection (3) of this section. The secretary shall require the
10 organization within thirty (30) days following any deduction from a money
11 deposit under the provisions of this subsection to deposit sufficient additional
12 money to make whole the organization's deposit at the prior level. The
13 secretary may, at any time, review the adequacy of the deposit made by any
14 organization. If, as a result of such review, he determines that an adjustment is
15 necessary, he shall require the organization to make additional deposit within
16 thirty (30) days of written notice of his determination or shall return to it such
17 portion of the deposit as he no longer considers necessary, whichever action is
18 appropriate.

19 (c) If any nonprofit organization fails to make a deposit, or to increase or make
20 whole the amount of a previously made deposit, as provided under this
21 subsection, the secretary may terminate such organization's election to make
22 payments in lieu of contributions and such termination shall continue for not
23 less than the remainder of that calendar year and the following calendar year
24 beginning with the quarter in which such termination becomes effective;
25 provided, that the secretary may extend for good cause the applicable filing,
26 deposit, or adjustment period by not more than sixty (60) days.

27 (5) If any nonprofit organization is delinquent in making payments in lieu of

1 contributions as required under subsection (3) of this section, the secretary may
 2 terminate such organization's election to make payments in lieu of contributions as
 3 of the beginning of the next calendar year, and such termination shall be effective
 4 for that and the next calendar year.

- 5 (6) Notwithstanding any other section of this chapter, no employing unit electing to
 6 make payments in lieu of contributions under the provisions of this section shall be
 7 entitled to relief of benefit charges.

8 Section 146. KRS 341.300 is amended to read as follows:

- 9 (1) Contributions unpaid on the date on which they are due and payable, as prescribed
 10 by the secretary, shall be subject to interest at the rate of one and five-tenths percent
 11 (1.5%) per month or fraction thereof, not to exceed ninety percent (90%) of the
 12 amount of such contributions, from and after such date until payment is received by
 13 the Office of Employment and Training, Department of Workforce
 14 Investment~~[department]~~, irrespective of whether such delinquency has been reduced
 15 to a judgment or not as provided in subsection (2) of this section or is the subject of
 16 an administrative appeal or court action. Such interest shall be paid into the
 17 unemployment compensation administration fund.
- 18 (2) If, after due notice, any subject employer defaults in any payment of contributions,
 19 interest or penalties thereon, the amount due shall be collected by a civil action
 20 instituted in the Franklin Circuit Court or the Franklin District Court depending
 21 upon the jurisdictional amount in controversy including interest and penalties in the
 22 name of the state, and the subject employer adjudged in default shall pay the costs
 23 of the action. Civil actions brought under this section shall be heard by the court,
 24 without the intervention of a jury, at the earliest possible date, and shall be entitled
 25 to preference upon the calendar of the court over all other civil actions except
 26 petitions for judicial review under this chapter and cases arising under the workers'
 27 compensation law.

1 (3) At or after the commencement of an action under subsection (2) of this section
 2 attachment may be had against the property of the liable subject employer for such
 3 contributions, interest and penalties without the execution of a bond, or after
 4 judgment has been entered an execution may be issued against the property of such
 5 employer without the execution of a bond.

6 (4) An action for the recovery of contributions, interest or penalties under this section
 7 shall be barred and any lien therefor shall be canceled and extinguished unless
 8 collected or suit for collection has been filed within five (5) years from the due date
 9 of such contributions, except in the case of the filing of a false or fraudulent report
 10 the contributions due shall not be barred and may at any time be collected by the
 11 methods set out in this chapter, including action in a court of competent jurisdiction.

12 Section 147. KRS 341.360 is amended to read as follows:

13 No worker may be paid benefits for any week of unemployment:

14 (1) With respect to which a strike or other bona fide labor dispute which caused him to
 15 leave or lose his employment is in active progress in the establishment in which he
 16 is or was employed, except that benefits may be paid unless the employer notifies
 17 the Office of Employment and Training, Department of Workforce
 18 Investment,~~[department]~~ in writing within seven (7) days after the beginning of
 19 such alleged strike or labor dispute of the alleged existence of such strike or labor
 20 dispute. For the purpose of this subsection a lockout shall not be deemed to be a
 21 strike or a bona fide labor dispute and no worker shall be denied benefits by reason
 22 of a lockout;

23 (2) For which he has received or is seeking unemployment compensation under an
 24 unemployment compensation law of another state or of the United States, except as
 25 otherwise provided by an arrangement between this state and such other state or the
 26 United States. But if the appropriate agency of such state or of the United States
 27 finally determines that he is not entitled to such unemployment compensation, this

1 subsection shall not apply; or

2 (3) (a) Which, when based on service in an instructional, research, or principal
3 administrative capacity in an institution of higher education as defined in
4 subsection (2) of KRS 341.067 or in an educational institution as defined in
5 subsection (4) of KRS 341.067, begins during the period between two (2)
6 successive academic years, or during a similar period between two (2) regular
7 terms, whether or not successive, or during a period of paid sabbatical leave
8 provided for in the individual's contract, if the worker performs such services
9 in the first of such academic years or terms and if there is a contract or a
10 reasonable assurance that the worker will perform such services in any such
11 capacity for any institution or institutions of higher education or an
12 educational institution in the second of such academic years or such terms; or

13 (b) Which, when based on service other than as defined in paragraph (a) of this
14 subsection, in an institution of higher education or an educational institution,
15 as defined in subsection (2) or (4) of KRS 341.067, begins during the period
16 between two (2) successive academic years or terms, if the worker performs
17 such services in the first of such academic years or terms and there is a
18 reasonable assurance that the worker will perform such services in the second
19 of such academic years or terms; except that if benefits are denied to any
20 worker under this paragraph and such worker was not offered an opportunity
21 to perform such services for such institution of higher education or such
22 educational institution for the second of such academic years or terms, such
23 worker shall be entitled to a retroactive payment of benefits for each week for
24 which the worker filed a timely claim for benefits and for which benefits were
25 denied solely by reason of this paragraph; or

26 (c) Which, when based on service in any capacity defined in paragraphs (a) and
27 (b) of this subsection, begins during an established and customary vacation

1 period or holiday recess if the worker performs any such services in the period
 2 immediately before such vacation period or holiday recess, and there is a
 3 reasonable assurance that such worker will perform any such services in the
 4 period immediately following such vacation period or holiday recess; or

5 (d) Based on service in any capacity defined in paragraph (a) or (b) of this
 6 subsection when such service is performed by the worker in an institution of
 7 higher education or an educational institution, as defined in subsection (2) or
 8 (4) of KRS 341.067, while the worker is in the employ of an educational
 9 service agency, and such unemployment begins during the periods and
 10 pursuant to the conditions specified in paragraphs (a), (b), and (c) of this
 11 subsection. For purposes of this paragraph the term "educational service
 12 agency" means a governmental agency or governmental entity which is
 13 established and operated exclusively for the purpose of providing such
 14 services to one (1) or more institutions of higher education or educational
 15 institutions.

16 (4) Except that any benefits paid to a worker based on service other than as defined in
 17 subsection (3)(a) of this section performed in an institution of higher education as
 18 defined in subsection (2) of KRS 341.067 shall be deemed to have been paid as a
 19 result of Office of Employment and Training, Department of Workforce
 20 Investment,~~[departmental]~~ error and not recoverable by the cabinet or such
 21 institution if such payment is improper by virtue of the retroactive application to
 22 October 30, 1983, of subsection (3)(b) of this section.

23 (5) Benefits shall not be paid to any individual on the basis of any services,
 24 substantially all of which consist of participating in sports or athletic events or
 25 training or preparing to so participate, for any week which commences during the
 26 period between two (2) successive sport seasons (or similar periods) and there is a
 27 reasonable assurance that such individual will perform such services in the later of

1 such seasons (or similar periods).

2 (6) (a) Benefits shall not be paid on the basis of services performed by an alien unless
 3 such alien is an individual who was lawfully admitted for permanent residence
 4 at the time such services were performed, was lawfully present for purposes of
 5 performing such services, or was residing in the United States under color of
 6 law at the time such services were performed (including an alien who was
 7 lawfully present in the United States as a result of the application of the
 8 provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and
 9 Nationality Act).

10 (b) Any data or information required of individuals applying for benefits to
 11 determine whether benefits are not payable to them because of their alien
 12 status shall be uniformly required from all applicants for benefits.

13 (c) In the case of an individual whose application for benefits would otherwise be
 14 approved, no determination that benefits to such individual are not payable
 15 because of his alien status shall be made except upon a preponderance of the
 16 evidence.

17 (7) With respect to which the worker is suspended from work for misconduct, as
 18 defined in KRS 341.370(6), connected with the work.

19 Section 148. KRS 341.370 is amended to read as follows:

20 (1) A worker shall be disqualified from receiving benefits for the duration of any period
 21 of unemployment with respect to which:

22 (a) He has failed without good cause either to apply for available, suitable work
 23 when so directed by the employment office or the secretary or to accept
 24 suitable work when offered him, or to return to his customary self-
 25 employment when so directed by the secretary; or

26 (b) He has been discharged for misconduct or dishonesty connected with his most
 27 recent work, or from any work which occurred after the first day of the

1 worker's base period and which last preceded his most recent work, but
 2 legitimate activity in connection with labor organizations or failure to join a
 3 company union shall not be construed as misconduct; or

4 (c) He has left his most recent suitable work or any other suitable work which
 5 occurred after the first day of the worker's base period and which last preceded
 6 his most recent work voluntarily without good cause attributable to the
 7 employment. No otherwise eligible worker shall be disqualified from
 8 receiving benefits for leaving his next most recent suitable work which was
 9 concurrent with his most recent work, or for leaving work which is one
 10 hundred (100) road miles or more, as measured on a one (1) way basis, from
 11 his home to accept work which is less than one hundred (100) road miles from
 12 his home, or for otherwise accepting work which is a bona fide job offer with
 13 a reasonable expectation of continued employment.

14 (2) A worker shall be disqualified from receiving benefits for any week with respect to
 15 which he knowingly made a false statement to establish his right to or the amount of
 16 his benefits, and, within the succeeding twenty-four (24) months, for the additional
 17 weeks immediately following the date of discovery, not to exceed a total of fifty-
 18 two (52), as may be determined by the secretary.

19 (3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this
 20 section unless the employer, within a reasonable time as prescribed by regulations
 21 promulgated by the secretary, notifies the Education Cabinet~~[-for-Workforce~~
 22 ~~Development]~~ and the worker in writing of the alleged voluntary quitting or the
 23 discharge for misconduct. Nothing in this subsection shall restrict the right of the
 24 secretary to disqualify a worker whose employer has refused or failed to notify the
 25 Education Cabinet~~[-for-Workforce-Development]~~ of the alleged voluntary quitting
 26 or discharge for misconduct, if the alleged voluntary quitting or discharge for
 27 misconduct is known to the secretary prior to the time benefits are paid to the

1 worker. The exercise of the right by the secretary, in the absence of timely notice
2 from the employer, shall not relieve the employer's reserve account or reimbursing
3 employer's account of benefit charges under the provisions of subsection (3) of KRS
4 341.530.

5 (4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work
6 shall be construed as that work which occurred after the first day of the worker's
7 base period and which last preceded the week of unemployment with respect to
8 which benefits are claimed; except that, if the work last preceding the week of
9 unemployment was seasonal, intermittent, or temporary in nature, most recent work
10 may be construed as that work last preceding the seasonal, intermittent, or
11 temporary work.

12 (5) No worker shall be disqualified or held ineligible under the provisions of this
13 section or KRS 341.350, who is separated from employment pursuant to a labor
14 management contract or agreement, or pursuant to an established employer plan,
15 program, or policy, which permits the employer to close the plant or facility for
16 purposes of vacation or maintenance.

17 (6) "Discharge for misconduct" as used in this section shall include, but not be limited
18 to, separation initiated by an employer for falsification of an employment
19 application to obtain employment through subterfuge; knowing violation of a
20 reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if
21 the worker cannot show good cause for absences or tardiness; damaging the
22 employer's property through gross negligence; refusing to obey reasonable
23 instructions; reporting to work under the influence of alcohol or drugs or consuming
24 alcohol or drugs on employer's premises during working hours; conduct
25 endangering safety of self or co-workers; and incarceration in jail following
26 conviction of a misdemeanor or felony by a court of competent jurisdiction, which
27 results in missing at least five (5) days work.

(7) "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

Section 149. KRS 341.410 is amended to read as follows:

The secretary~~commissioner~~ acting through his duly authorized representatives shall, upon request, determine the insured status of a worker. If a worker is found to have fully insured status, as defined in subsection (3) of KRS 341.090, the Division of Unemployment Insurance shall notify all interested parties. If found to be not fully insured, the division shall notify the worker. The secretary~~commissioner~~ may, at any time within a worker's benefit year, make such further determinations as may affect the worker's eligibility for benefits or may set aside, reconsider, modify, or amend a determination at any time on the basis of additional information or to correct a clerical mistake. The commission may by regulation prescribe what constitutes a determination as used in this section and subsections (2) and (3) of KRS 341.420.

Section 150. KRS 341.415 is amended to read as follows:

(1) Any person who has received any sum as benefits under this chapter or any other state's unemployment insurance statutes or any United States Department of Labor unemployment insurance benefit program providing the secretary has signed a reciprocal agreement with such other state or the United States Department of Labor as provided in KRS 341.145, while any condition for the receipt of such benefits was not fulfilled in his case, or while he was disqualified from receiving benefits, or if he has received benefits in weeks for which he later receives a back pay award, shall, in the discretion of the secretary, either have such sum deducted from any future benefits payable to him under this chapter or repay the Office of Employment

1 and Training, Department of Workforce Investment,~~[department]~~ for the fund a
 2 sum equal to the amount so received by him. If after due notice the recipient of such
 3 sum fails to remit or arrange for remittance of the sum, the sum may be collected in
 4 the manner provided in KRS 341.300(2) for collection of past-due contributions and
 5 any sums so collected shall be credited to the pooled account or the appropriate
 6 reimbursing employer account. However, if the benefit was paid as a result of
 7 office~~[departmental]~~ error as defined by administrative regulation, there shall be no
 8 recoupment or recovery of an improperly paid benefit, except by deduction from
 9 any future benefits payable to him under this chapter. For purposes of this section,
 10 overpayments as a result of a reversal of entitlement to benefits in the appeal or
 11 review process shall not be construed to be the result of office~~[departmental]~~ error.

12 (2) At or after the commencement of an action under subsection (1) of this section,
 13 attachment may be had against property of the recipient of improperly paid benefits
 14 in the manner provided in KRS 341.300(3).

15 (3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby
 16 created in favor of the office~~[department]~~ upon all property of any recipient of
 17 improperly paid benefits. This lien shall be for a sum equal to the amount of the
 18 overpayment finally determined and shall continue until the amount of the
 19 overpayment plus any subsequent assessment of additional improperly paid
 20 benefits, interest, and fees are fully paid. The lien shall commence from such time
 21 as the recipient has exhausted or abandoned the appeal procedure set forth in this
 22 chapter and the amount of the overpayment is finally fixed. A notice of lien may be
 23 filed in the same manner as that provided for in KRS 341.310.

24 (4) Any amount paid to a person as benefits, which he has been found liable to repay or
 25 to have deducted from future benefits under subsections (1), (2), and (3) of this
 26 section, which has neither been repaid nor so deducted within a period of five (5)
 27 years following the last day of the benefit year within which it was paid, may be

1 deemed to be uncollectible and shall be permanently charged to the pooled account,
 2 except that if such payment was made by reason of fraudulent representations, no
 3 future benefits shall be paid such person within a period of ten (10) years of the last
 4 day of the benefit year within which such payments were made at which time these
 5 amounts may be declared uncollectible. Nothing in this subsection shall be deemed
 6 to affect collection of improperly paid benefits pursuant to a judgment or other legal
 7 remedy.

8 (5) In the event benefits have been paid as a result of false statement, misrepresentation,
 9 or concealment of material information by a recipient of benefits and have not been
 10 repaid by the recipient within one (1) calendar year from the date of the first notice,
 11 interest at the rate of one and five-tenths percent (1.5%) per month or any part
 12 thereof, shall be imposed on and added to the unpaid balance each successive
 13 month, providing due notice has been given to the recipient. Such interest shall be
 14 paid into the unemployment compensation administration account.

15 (6) The deduction from future benefits specified in subsection (1) of this section shall
 16 be limited to twenty-five percent (25%) of the benefit amount otherwise payable
 17 under this chapter unless the overpayment resulted from a backpay award, false
 18 statement, misrepresentation, or concealment of material information by a recipient
 19 of benefits. In these instances, the rate of deduction shall be one hundred percent
 20 (100%). The rate of deduction from benefits payable by another state or the United
 21 States of America shall be determined by the applicable state or federal statute.

22 Section 151. KRS 341.420 is amended to read as follows:

- 23 (1) The secretary shall appoint one (1) or more impartial referees according to KRS
 24 341.125 to hear and decide appealed claims.
- 25 (2) A party to a determination may file an appeal to a referee as to any matter therein
 26 within fifteen (15) days after the date such determination was mailed to his last
 27 known address.

1 (3) If benefits are allowed by a determination of the secretary, or a decision of a referee,
2 the commission, the secretary, or a reviewing-court, such benefits shall be paid
3 promptly without regard to the pendency of an appeal or period for filing an appeal
4 therefrom. If a determination or decision allowing benefits is modified or reversed
5 by a subsequent determination or decision, benefits shall be paid or denied for
6 weeks of unemployment thereafter in accordance with such modification or denial.
7 No injunction, supersedeas, stay or other writ or process suspending payment of
8 such benefits shall be issued.

9 (4) Unless such appeal is withdrawn, a referee, after affording the parties reasonable
10 opportunity for a fair hearing, shall affirm or modify the determination. The parties
11 shall be duly notified of his decision, together with the reasons therefor, which shall
12 be deemed to be the final decision unless within fifteen (15) days after the date of
13 mailing of such decision, further appeal is initiated under KRS 341.430.

14 (5) No finding of fact or law, judgment, conclusion, or final order made with respect to
15 a claim for unemployment compensation under this chapter may be conclusive or
16 binding in any separate or subsequent action or proceeding in another forum, except
17 proceedings under this chapter, regardless of whether the prior action was between
18 the same or related parties or involved the same facts.

19 Section 152. KRS 341.440 is amended to read as follows:

20 (1) The manner in which appeals are presented and hearings and appeals conducted
21 shall be in accordance with regulations prescribed by the secretary for determining
22 the rights of the parties, and such hearings to be conducted in a summary manner. A
23 complete record shall be kept of all proceedings in connection with any appeal. All
24 testimony at any hearing upon an appeal shall be recorded either stenographically or
25 mechanically, but need not be transcribed unless further appealed. No examiner,
26 referee or member of the commission shall participate in any hearing in which he is
27 an interested party.

(2) Witnesses subpoenaed pursuant to proceedings under KRS 341.420 and 341.430 shall be allowed fees in accordance with rates allowed by law. Such fees and all expenses of proceedings before the Office of Employment and Training, Department of Workforce Investment,~~[department]~~ or commission involving disputed claims shall be deemed a part of the expense of administering this chapter.

(3) In the absence of an appeal therefrom, decisions of the commission shall become final twenty (20) days after the date they are made.

Section 153. KRS 341.470 is amended to read as follows:

(1) No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this chapter shall be valid. No agreement by any worker to pay any portion of a subject employer's contributions, required under this chapter from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him. In cases involving awards to a worker by an arbitrator, court, or other administrative body or mediator, the secretary may require the employer to withhold benefits paid under this chapter from the award and pay the amount withheld into the unemployment insurance trust fund. All subject employers are required to notify the Office of Employment and Training, Department of Workforce Investment,~~[Department for Employment Services, Cabinet for Workforce Development]~~ prior to paying any back pay award.

(2) No worker claiming benefits shall be charged fees of any kind in any proceeding under this chapter by the commission, the secretary, or his or her representatives. Any worker claiming benefits in any proceeding before a referee or the commission may represent himself or herself or may be represented by counsel or other agent duly authorized by such worker and shall be afforded the opportunity to participate in the proceeding without restriction; but no counsel or agent shall either charge or receive for such service more than an amount approved by the commission.

- 1 (3) (a) Any employer in any proceeding before a referee or the commission may
 2 represent himself or may be represented by counsel or other agent duly
 3 authorized by such employer; and
- 4 (b) Any person appearing in any proceeding before a referee or the commission
 5 who is an officer of, or who regularly performs in a managerial capacity for, a
 6 corporation or partnership which is a party to the proceeding in which the
 7 appearance is made shall be permitted to represent such corporation or
 8 partnership and shall be afforded the opportunity to participate in the
 9 proceeding without restriction.
- 10 (4) No assignment, pledge, or encumbrance of any right to benefits due or payable
 11 under this chapter shall be valid; and such rights to benefits shall be exempt from
 12 levy, execution, attachment, or any other remedy for the collection of debt. Benefits
 13 received by any worker, as long as they are not mingled with other funds of the
 14 recipient, shall be exempt from any remedy for the collection of all debts except
 15 debts incurred for necessities furnished to such worker or his spouse or dependents
 16 during the time such worker was unemployed. No waiver of any exemption
 17 provided for in this subsection shall be valid.
- 18 (5) The provisions of this section shall not be applicable to child support deductions
 19 made in accordance with KRS 341.392 and withholding for federal and state
 20 income tax in accordance with KRS 341.395.

21 Section 154. KRS 341.530 is amended to read as follows:

- 22 (1) The Office of Employment and Training, Department of Workforce
 23 Investment, [department] shall maintain a reserve account for each subject employer
 24 making contributions to the fund and a reimbursing employer account for each
 25 subject employer making payment in lieu of contributions, and shall, except as
 26 provided in KRS 341.590, credit to such account the total amount of all
 27 contributions or benefit reimbursement paid by the employer on his own behalf.

1 Nothing in this section or elsewhere in this chapter shall be construed to grant any
2 employer or individual who is or was in his employ prior claims or rights to the
3 amounts paid by him into the fund.

4 (2) Except as provided in subsection (3) of this section, all regular benefits paid to an
5 eligible worker in accordance with KRS 341.380 plus the extended benefits paid in
6 accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs
7 (a) and (b) below, shall be charged against the reserve account or reimbursing
8 employer account of his most recent employer. No employer shall be deemed to be
9 the most recent employer unless the eligible worker to whom benefits are payable
10 shall have worked for such employer in each of ten (10) weeks whether or not
11 consecutive back to the beginning of the worker's base period.

12 (a) Subject employers, which are not governmental entities as defined in KRS
13 341.069, shall be charged one-half (1/2) of the extended benefits paid in
14 accordance with KRS 341.700 to 341.740; and

15 (b) Subject employers which are governmental entities, as defined in KRS
16 341.069, shall be charged for all extended benefits paid in accordance with
17 KRS 341.700 to 341.740 for compensable weeks occurring on or after January
18 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable
19 weeks occurring prior to such date.

20 (3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an
21 eligible worker and chargeable to a contributing employer's reserve account under
22 such subsection shall be charged against the pooled account if such worker was
23 discharged by such employer for misconduct connected with his most recent work
24 for such employer, voluntarily left his most recent work with such employer without
25 good cause attributable to the employment, or the employer has continued to
26 provide part-time employment and wages, without interruption, to the same extent
27 that was provided from the date of hire, and the employer within a reasonable time,

as prescribed by regulation of the secretary, notifies the office~~[department]~~, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing part-time employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account or reimbursing account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account or reimbursing account under subsection (2) of this section.

A subject employer's reserve account or reimbursing account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540 or has been refunded if the employer is a reimbursing employer.

(5) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code sec. 501(c)(3)) organizations may jointly request the secretary to establish a group reserve account or reimbursing account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account or reimbursing account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance, and dissolution of a group reserve account or reimbursing account.

(6) Any subject contributing employer may at any time make voluntary payments to the

1 fund, additional to the contributions required under KRS 341.260 and 341.270.
 2 Notwithstanding any other provision of this chapter, contributions paid on or before
 3 the computation date and voluntary payments made within twenty (20) days
 4 following the mailing of notices of new rates shall be credited to an employer's
 5 reserve account as of the computation date, provided no voluntary payments shall
 6 be used in computing an employer's rate unless the payment is made prior to the
 7 expiration of one hundred and twenty (120) days after the beginning of the year for
 8 which the rate is effective. Voluntary contributions by any employer subject to a
 9 minimum rate as provided in KRS 341.270(2) or KRS 341.272(1) shall not exceed
 10 any negative balance they may have in their reserve account as of the computation
 11 date. Any employer who is delinquent in the payment of contributions, penalties, or
 12 interest as of the computation date shall be entitled to make voluntary payments
 13 only after the amount of the delinquency is paid in full.

14 Section 155. KRS 341.990 is amended to read as follows:

- 15 (1) Any employee of any state agency~~[department]~~ who violates any of the provisions
 16 of KRS 341.110 to 341.230 shall be guilty of a Class B misdemeanor.
- 17 (2) Any person subpoenaed to appear and testify or produce evidence in an inquiry,
 18 investigation, or hearing conducted under this chapter who fails to obey the
 19 subpoena shall be guilty of a Class B misdemeanor.
- 20 (3) Any subject employer, or officer or agent of a subject employer, who violates
 21 subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.
- 22 (4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A
 23 misdemeanor.
- 24 (5) Any person who knowingly makes a false statement or representation of a material
 25 fact or knowingly fails to disclose a material fact to the secretary to obtain or
 26 increase any benefit under this chapter or under an employment security law of any
 27 other state, or of the federal government, either for himself or for any other person,

1 business entity, or organization shall be guilty of a Class A misdemeanor unless the
 2 value of the benefits procured or attempted to be procured is one hundred dollars
 3 (\$100) or more, in which case he shall be guilty of a Class D felony.

4 (6) (a) Any person who knowingly makes a false statement or representation, or who
 5 knowingly fails to disclose a material fact to prevent or reduce the payment of
 6 benefits to any worker entitled thereto, or to avoid becoming or remaining
 7 subject to this chapter, or to avoid or reduce any payment required of an
 8 employing unit under this chapter shall be guilty of a Class A misdemeanor
 9 unless the liability avoided or attempted to be avoided is one hundred dollars
 10 (\$100) or more, in which case he shall be guilty of a Class D felony.

11 (b) Any person who willfully fails or refuses to furnish any reports required, or to
 12 produce or permit the inspection or copying of records required in this chapter
 13 shall be guilty of a Class B misdemeanor. Each such false statement,
 14 representation or failure and each day of failure or refusal shall constitute a
 15 separate offense.

16 (7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall
 17 be a defense if the person relied on the advice of an employee or agent of the Office
 18 of Employment and Training, Department of Workforce Investment~~[department]~~.

19 (8) Any person who willfully violates any provision of this chapter or any rule or
 20 regulation under it, the violation of which is made unlawful or the observance of
 21 which is required under the terms of this chapter, and for which no specific penalty
 22 is prescribed in this chapter or in any other applicable statute, shall be guilty of a
 23 violation. Each day the violation continues shall constitute a separate offense.

24 (9) In addition to the higher rates imposed under KRS 341.540(7), any person, whether
 25 or not an employing unit, who knowingly advises or assists an employing unit in the
 26 violation or attempted violation of KRS 341.540 or any other provision of this
 27 chapter related to determining the assignment of a contribution rate shall be subject

1 to a civil monetary penalty of not less than five thousand dollars (\$5,000).

- 2 (10) Proceeds from all penalties imposed under subsection (9) of this section and KRS
3 341.540 shall be deposited in the unemployment compensation administration
4 account and shall be expended solely for the cost of administration of this chapter
5 consistent with KRS 341.240.

6 Section 156. KRS 342.0011 is amended to read as follows:

7 As used in this chapter, unless the context otherwise requires:

- 8 (1) "Injury" means any work-related traumatic event or series of traumatic events,
9 including cumulative trauma, arising out of and in the course of employment which
10 is the proximate cause producing a harmful change in the human organism
11 evidenced by objective medical findings. "Injury" does not include the effects of the
12 natural aging process, and does not include any communicable disease unless the
13 risk of contracting the disease is increased by the nature of the employment.
14 "Injury" when used generally, unless the context indicates otherwise, shall include
15 an occupational disease and damage to a prosthetic appliance, but shall not include
16 a psychological, psychiatric, or stress-related change in the human organism, unless
17 it is a direct result of a physical injury.

- 18 (2) "Occupational disease" means a disease arising out of and in the course of the
19 employment.

- 20 (3) An occupational disease as defined in this chapter shall be deemed to arise out of
21 the employment if there is apparent to the rational mind, upon consideration of all
22 the circumstances, a causal connection between the conditions under which the
23 work is performed and the occupational disease, and which can be seen to have
24 followed as a natural incident to the work as a result of the exposure occasioned by
25 the nature of the employment and which can be fairly traced to the employment as
26 the proximate cause. The occupational disease shall be incidental to the character of
27 the business and not independent of the relationship of employer and employee. An

1 occupational disease need not have been foreseen or expected but, after its
 2 contraction, it must appear to be related to a risk connected with the employment
 3 and to have flowed from that source as a rational consequence.

4 (4) "Injurious exposure" shall mean that exposure to occupational hazard which would,
 5 independently of any other cause whatsoever, produce or cause the disease for
 6 which the claim is made.

7 (5) "Death" means death resulting from an injury or occupational disease.

8 (6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the
 9 liability of employers under this chapter and includes a self-insurer.

10 (7) "Self-insurer" is an employer who has been authorized under the provisions of this
 11 chapter to carry his own liability on his employees covered by this chapter.

12 (8) "Office" means the Office of Workers' Claims in the Department of Labor.

13 (9) "Executive director" means the executive director of the Office of Workers' Claims.

14 (10) "Board" means the Workers' Compensation Board.

15 (11) (a) "Temporary total disability" means the condition of an employee who has not
 16 reached maximum medical improvement from an injury and has not reached a
 17 level of improvement that would permit a return to employment;

18 (b) "Permanent partial disability" means the condition of an employee who, due to
 19 an injury, has a permanent disability rating but retains the ability to work; and

20 (c) "Permanent total disability" means the condition of an employee who, due to
 21 an injury, has a permanent disability rating and has a complete and permanent
 22 inability to perform any type of work as a result of an injury, except that total
 23 disability shall be irrebuttably presumed to exist for an injury that results in:

- 24 1. Total and permanent loss of sight in both eyes;
- 25 2. Loss of both feet at or above the ankle;
- 26 3. Loss of both hands at or above the wrist;
- 27 4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at

- 1 or above the wrist;
- 2 5. Permanent and complete paralysis of both arms, both legs, or one (1)
- 3 arm and one (1) leg;
- 4 6. Incurable insanity or imbecility; or
- 5 7. Total loss of hearing.
- 6 (12) "Income benefits" means payments made under the provisions of this chapter to the
- 7 disabled worker or his dependents in case of death, excluding medical and related
- 8 benefits.
- 9 (13) "Medical and related benefits" means payments made for medical, hospital, burial,
- 10 and other services as provided in this chapter, other than income benefits.
- 11 (14) "Compensation" means all payments made under the provisions of this chapter
- 12 representing the sum of income benefits and medical and related benefits.
- 13 (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical
- 14 rehabilitation services, medicines, and fittings for artificial or prosthetic devices.
- 15 (16) "Person" means any individual, partnership, including a registered limited liability
- 16 partnership, limited partnership, limited liability company, firm, association, trust,
- 17 joint venture, corporation, limited liability company, or legal representative thereof.
- 18 (17) "Wages" means, in addition to money payments for services rendered, the
- 19 reasonable value of board, rent, housing, lodging, fuel, or similar advantages
- 20 received from the employer, and gratuities received in the course of employment
- 21 from persons other than the employer as evidenced by the employee's federal and
- 22 state tax returns.
- 23 (18) "Agriculture" means the operation of farm premises, including the planting,
- 24 cultivation, producing, growing, harvesting, and preparation for market of
- 25 agricultural or horticultural commodities thereon, the raising of livestock for food
- 26 products and for racing purposes, and poultry thereon, and any work performed as
- 27 an incident to or in conjunction with the farm operations. It shall not include the

- 1 commercial processing, packing, drying, storing, or canning of such commodities
 2 for market, or making cheese or butter or other dairy products for market.
- 3 (19) "Beneficiary" means any person who is entitled to income benefits or medical and
 4 related benefits under this chapter.
- 5 (20) "United States," when used in a geographic sense, means the several states, the
 6 District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the
 7 territories of the United States.
- 8 (21) "Alien" means a person who is not a citizen, a national, or a resident of the United
 9 States or Canada. Any person not a citizen or national of the United States who
 10 relinquishes or is about to relinquish his residence in the United States shall be
 11 regarded as an alien.
- 12 (22) "Insurance carrier" means every insurance carrier or insurance company authorized
 13 to do business in the Commonwealth writing workers' compensation insurance
 14 coverage and includes the Kentucky Employers Mutual Insurance Authority and
 15 every self-insured group operating under the provisions of this chapter.
- 16 (23) (a) "Severance or processing of coal" means all activities performed in the
 17 Commonwealth at underground, auger, and surface mining sites; all activities
 18 performed at tipples or processing plants that clean, break, size, or treat coal;
 19 and all activities performed at coal loading facilities for trucks, railroads, and
 20 barges. Severance or processing of coal shall not include acts performed by a
 21 final consumer if the acts are performed at the site of final consumption.
- 22 (b) "Engaged in severance or processing of coal" shall include all individuals,
 23 partnerships, including registered limited liability partnerships, limited
 24 partnerships, limited liability companies, corporations, joint ventures,
 25 associations, or any other business entity in the Commonwealth which has
 26 employees on its payroll who perform any of the acts stated in paragraph (a) of
 27 this subsection, regardless of whether the acts are performed as owner of the

1 coal or on a contract or fee basis for the actual owner of the coal. A business
 2 entity engaged in the severance or processing of coal, including, but not
 3 limited to, administrative or selling functions, shall be considered wholly
 4 engaged in the severance or processing of coal for the purpose of this chapter.
 5 However, a business entity which is engaged in a separate business activity
 6 not related to coal, for which a separate premium charge is not made, shall be
 7 deemed to be engaged in the severance or processing of coal only to the extent
 8 that the number of employees engaged in the severance or processing of coal
 9 bears to the total number of employees. Any employee who is involved in the
 10 business of severing or processing of coal and business activities not related to
 11 coal shall be prorated based on the time involved in severance or processing
 12 of coal bears to his total time.

13 (24) "Premium" for every self-insured group means any and all assessments levied on its
 14 members by such group or contributed to it by the members thereof. For special
 15 fund assessment purposes, "premium" also includes any and all membership dues,
 16 fees, or other payments by members of the group to associations or other entities
 17 used for underwriting, claims handling, loss control, premium audit, actuarial, or
 18 other services associated with the maintenance or operation of the self-insurance
 19 group.

20 (25) (a) "Premiums received" for policies effective on or after January 1, 1994, for
 21 insurance companies means direct written premiums as reported in the annual
 22 statement to the Office of Insurance by insurance companies, except that
 23 "premiums received" includes premiums charged off or deferred, and, on
 24 insurance policies or other evidence of coverage with provisions for
 25 deductibles, the calculated cost for coverage, including experience
 26 modification and premium surcharge or discount, prior to any reduction for
 27 deductibles. The rates, factors, and methods used to calculate the cost for

1 coverage under this paragraph for insurance policies or other evidence of
2 coverage with provisions for deductibles shall be the same rates, factors, and
3 methods normally used by the insurance company in Kentucky to calculate the
4 cost for coverage for insurance policies or other evidence of coverage without
5 provisions for deductibles, except that, for insurance policies or other
6 evidence of coverage with provisions for deductibles effective on or after
7 January 1, 1995, the calculated cost for coverage shall not include any
8 schedule rating modification, debits, or credits. The cost for coverage
9 calculated under this paragraph by insurance companies that issue only
10 deductible insurance policies in Kentucky shall be actuarially adequate to
11 cover the entire liability of the employer for compensation under this chapter,
12 including all expenses and allowances normally used to calculate the cost for
13 coverage. For policies with provisions for deductibles with effective dates of
14 May 6, 1993, through December 31, 1993, for which the insurance company
15 did not report premiums and remit special fund assessments based on the
16 calculated cost for coverage prior to the reduction for deductibles, "premiums
17 received" includes the initial premium plus any reimbursements invoiced for
18 losses, expenses, and fees charged under the deductibles. The special fund
19 assessment rates in effect for reimbursements invoiced for losses, expenses, or
20 fees charged under the deductibles shall be those percentages in effect on the
21 effective date of the insurance policy. For policies covering leased employees
22 as defined in KRS 342.615, "premiums received" means premiums calculated
23 using the experience modification factor of each lessee as defined in KRS
24 342.615 for each leased employee for that portion of the payroll pertaining to
25 the leased employee.

- 26 (b) "Direct written premium" for insurance companies means the gross premium
27 written less return premiums and premiums on policies not taken but

1 including policy and membership fees.

2 (c) "Premium," for policies effective on or after January 1, 1994, for insurance
3 companies means all consideration, whether designated as premium or
4 otherwise, for workers' compensation insurance paid to an insurance company
5 or its representative, including, on insurance policies with provisions for
6 deductibles, the calculated cost for coverage, including experience
7 modification and premium surcharge or discount, prior to any reduction for
8 deductibles. The rates, factors, and methods used to calculate the cost for
9 coverage under this paragraph for insurance policies or other evidence of
10 coverage with provisions for deductibles shall be the same rates, factors, and
11 methods normally used by the insurance company in Kentucky to calculate the
12 cost for coverage for insurance policies or other evidence of coverage without
13 provisions for deductibles, except that, for insurance policies or other
14 evidence of coverage with provisions for deductibles effective on or after
15 January 1, 1995, the calculated cost for coverage shall not include any
16 schedule rating modifications, debits, or credits. The cost for coverage
17 calculated under this paragraph by insurance companies that issue only
18 deductible insurance policies in Kentucky shall be actuarially adequate to
19 cover the entire liability of the employer for compensation under this chapter,
20 including all expenses and allowances normally used to calculate the cost for
21 coverage. For policies with provisions for deductibles with effective dates of
22 May 6, 1993, through December 31, 1993, for which the insurance company
23 did not report premiums and remit special fund assessments based on the
24 calculated cost for coverage prior to the reduction for deductibles, "premium"
25 includes the initial consideration plus any reimbursements invoiced for losses,
26 expenses, or fees charged under the deductibles.

27 (d) "Return premiums" for insurance companies means amounts returned to

1 insureds due to endorsements, retrospective adjustments, cancellations,
2 dividends, or errors.

3 (26) "Insurance policy" for an insurance company or self-insured group means the term
4 of insurance coverage commencing from the date coverage is extended, whether a
5 new policy or a renewal, through its expiration, not to exceed the anniversary date
6 of the renewal for the following year.

7 (27) "Self-insurance year" for a self-insured group means the annual period of
8 certification of the group created pursuant to KRS 342.350(4) and 304.50-010.

9 (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1)
10 shall be the projected value of the employer's workers' compensation claims for the
11 next calendar year as calculated by the executive director using generally-accepted
12 actuarial methods as follows:

13 (a) The base period shall be the earliest three (3) calendar years of the five (5)
14 calendar years immediately preceding the calendar year for which the
15 calculation is made. The executive director shall identify each claim of the
16 employer which has an injury date or date of last injurious exposure to the
17 cause of an occupational disease during each one (1) of the three (3) calendar
18 years to be used as the base, and shall assign a value to each claim. The value
19 shall be the total of the indemnity benefits paid to date and projected to be
20 paid, adjusted to current benefit levels, plus the medical benefits paid to date
21 and projected to be paid for the life of the claim, plus the cost of medical and
22 vocational rehabilitation paid to date and projected to be paid. Adjustment to
23 current benefit levels shall be done by multiplying the weekly indemnity
24 benefit for each claim by the number obtained by dividing the statewide
25 average weekly wage which will be in effect for the year for which the
26 premium is being calculated by the statewide average weekly wage in effect
27 during the year in which the injury or date of the last exposure occurred. The

total value of the claims using the adjusted weekly benefit shall then be calculated by the executive director. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

- (b) The executive director shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the office and from the records of the Office of~~Department for~~ Employment and Training~~Services~~, Education Cabinet~~for Workforce Development~~. The executive director shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.
- (c) The executive director shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the office and the Office of~~Department for~~ Employment and Training~~Services~~ data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.
- (d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board

1 pursuant to the provisions contained in this subsection and such premium
2 shall be provided to each employer carrying his own risk and to the funding
3 commission on or before January 1, 1988. Thereafter, the calculations set
4 forth in this subsection shall be performed annually, at the time each employer
5 applies or renews his application for certification to carry his own risk for the
6 next twelve (12) month period and submits payroll and other data in support
7 of the application. The employer and the funding commission shall be notified
8 at the time of the certification or recertification of the premium calculated by
9 the executive director, which shall form the employer's basis for assessments
10 pursuant to KRS 342.122 for the calendar year beginning on January 1
11 following the date of certification or recertification.

12 (e) If an employer having fewer than five (5) years of doing business in this state
13 applies to carry his own risk and is so certified, his premium for the purposes
14 of KRS 342.122 shall be based on the lesser number of years of experience as
15 may be available including the two (2) most recent years if necessary to create
16 a three (3) year base period. If the employer has less than two (2) years of
17 operation in this state available for the premium calculation, then his premium
18 shall be the greater of the value obtained by the calculation called for in this
19 subsection or the amount of security required by the executive director
20 pursuant to KRS 342.340(1).

21 (f) If an employer is certified to carry his own risk after having previously insured
22 the risk, his premium shall be calculated using values obtained from claims
23 incurred while insured for as many of the years of the base period as may be
24 necessary to create a full three (3) year base. After the employer is certified to
25 carry his own risk and has paid all amounts due for assessments upon
26 premiums paid while insured, he shall be assessed only upon the premium
27 calculated under this subsection.

- 1 (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated
2 as set forth in this subsection.
- 3 (h) Notwithstanding any other provision of this subsection, the premium of any
4 employer authorized to carry its own risk for purposes of assessments due
5 under this chapter shall be no less than thirty cents (\$0.30) per one hundred
6 dollars (\$100) of the employer's most recent annualized payroll for employees
7 covered by this chapter.
- 8 (29) "SIC code" as used in this chapter means the Standard Industrial Classification
9 Code contained in the latest edition of the Standard Industrial Classification Manual
10 published by the Federal Office of Management and Budget.
- 11 (30) "Investment interest" means any pecuniary or beneficial interest in a provider of
12 medical services or treatment under this chapter, other than a provider in which that
13 pecuniary or investment interest is obtained on terms equally available to the public
14 through trading on a registered national securities exchange, such as the New York
15 Stock Exchange or the American Stock Exchange, or on the National Association of
16 Securities Dealers Automated Quotation System.
- 17 (31) "Managed health care system" means a health care system that employs gatekeeper
18 providers, performs utilization review, and does medical bill audits.
- 19 (32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists,
20 podiatrists, and osteopathic and chiropractic practitioners acting within the scope of
21 their license issued by the Commonwealth.
- 22 (33) "Objective medical findings" means information gained through direct observation
23 and testing of the patient applying objective or standardized methods.
- 24 (34) "Work" means providing services to another in return for remuneration on a regular
25 and sustained basis in a competitive economy.
- 26 (35) "Permanent impairment rating" means percentage of whole body impairment caused
27 by the injury or occupational disease as determined by "Guides to the Evaluation of

1 Permanent Impairment," American Medical Association, latest available edition.

2 (36) "Permanent disability rating" means the permanent impairment rating selected by an
3 administrative law judge times the factor set forth in the table that appears at KRS
4 342.730(1)(b).

5 Section 157. KRS 342.122 is amended to read as follows:

6 (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose
7 of funding and prefunding the liabilities of the special fund, financing the
8 administration and operation of the Kentucky Workers' Compensation
9 Funding Commission, and financing the expenditures for all programs in the
10 Department of Labor, except the Division of Employment Standards,
11 Apprenticeship and Training and the Office of Labor-Management Relations
12 and Mediation, as reflected in the enacted budget of the Commonwealth and
13 enacted by the General Assembly, the funding commission shall impose a
14 special fund assessment rate of nine percent (9%) upon the amount of workers'
15 compensation premiums received on and after January 1, 1997, through
16 December 31, 1997, by every insurance carrier writing workers' compensation
17 insurance in the Commonwealth, by every self-insured group operating under
18 the provisions of KRS 342.350(4) and Chapter 304, and against the premium,
19 as defined in KRS 342.0011, of every employer carrying his or her own risk.

20 (b) The funding commission shall, for calendar year 1998 and thereafter, establish
21 for the special fund an assessment rate to be assessed against all premium
22 received during that calendar year which, when added to the coal severance
23 tax appropriated to the special fund in accordance with paragraph (c) of this
24 section, shall produce enough revenue to amortize on a level basis the
25 unfunded liability of the special fund as of September 1 preceding January 1
26 of each year, for the period remaining until December 31, 2018. The interest
27 rate to be used in this calculation shall reflect the funding commission's

1 investment experience to date and the current investment policies of the
2 commission. This assessment shall be imposed upon the amount of workers'
3 compensation premiums received by every insurance carrier writing workers'
4 compensation insurance in the Commonwealth, by every self-insured group
5 operating under the provisions of KRS 342.350(4) and Chapter 304, and
6 against the premium, as defined in KRS 342.0011, of every employer carrying
7 his own risk.

8 (c) In addition to the assessment imposed in paragraph (a) or (b) of this
9 subsection, and notwithstanding and prior to the transfer of funds to the Local
10 Government Economic Assistance Program under KRS 42.450 to 42.495, the
11 Kentucky Department of Revenue shall credit nineteen million dollars
12 (\$19,000,000) in coal severance tax revenues levied under KRS 143.020 to
13 the benefit reserve fund within the Kentucky Workers' Compensation Funding
14 Commission each year beginning with fiscal year 1998 and all fiscal years
15 thereafter. The annual transfer of nineteen million dollars (\$19,000,000) shall
16 occur in four (4) equal quarterly payments. These transfers shall occur not
17 later than the last day of each quarter of each calendar year and shall consist of
18 four (4) equal payments of four million, seven hundred fifty thousand dollars
19 (\$4,750,000).

20 (d) All assessments imposed by this section shall be paid to the Kentucky
21 Workers' Compensation Funding Commission and shall be credited to the
22 benefit reserve fund within the Kentucky Workers' Compensation Funding
23 Commission.

24 (e) The assessments imposed in this chapter shall be in lieu of all other
25 assessments or taxes on workers' compensation premiums.

26 (2) These assessments shall be paid quarterly not later than the thirtieth day of the
27 month following the end of the quarter in which the premium is received. Receipt

1 shall be considered timely through actual physical receipt or by postmark of the
2 United States Postal Service. Employers carrying their own risk and employers
3 defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal
4 quarterly installments.

5 (3) The assessments imposed by this section may be collected by the insurance carrier
6 from his insured. However, the insurance carrier shall not collect from the employer
7 any amount exceeding the assessments imposed pursuant to this section. If the
8 insurance carrier collects the assessment from an insured, the assessment shall be
9 collected at the same time and in the same proportion as the premium is collected.
10 The assessment for an insurance policy or other evidence of coverage providing a
11 deductible may be collected in accordance with this chapter on a premium amount
12 that equates to the premium that would have applied without the deductible. Each
13 statement from an insurance carrier presented to an insured reflecting premium and
14 assessment amounts shall clearly identify and distinguish the amount to be paid for
15 premium and the amount to be paid for assessments. No insurance carrier shall
16 collect from an insured an amount in excess of the assessment percentages imposed
17 by this chapter. The assessment for an insurance policy or other evidence of
18 coverage providing a deductible may be collected in accordance with this chapter on
19 a premium amount that equates to the premium that would have applied without the
20 deductible. The percentages imposed by this chapter for an insurance policy issued
21 by an insurance company shall be those percentages in effect on the annual effective
22 date of the policy, regardless of the date that the premium is actually received by the
23 insurance company.

24 (4) A self-insured group may elect to report its premiums and to have its assessments
25 computed in the same manner as insurance companies. This election may not be
26 rescinded for at least ten (10) years, nor may this election be made a second time for
27 at least another ten (10) years, except that the board of directors of the funding

1 commission may, at its discretion, waive the ten (10) year ban on a case-by-case
 2 basis after formal petition has been made to the funding commission by a self-
 3 insured group.

4 (5) The funding commission, as part of the collection and auditing of the special fund
 5 assessments required by this section, shall annually require each insurance carrier
 6 and each self-insured group to provide a list of employers which it has insured or
 7 which are members and the amount collected from each employer. Additionally, the
 8 funding commission shall require each entity paying a special fund assessment to
 9 report the SIC code for each employer and the amount of premium collected from
 10 each SIC code. An insurance carrier or self-insured group may require its insureds
 11 or members to furnish the SIC code for each of their employees. However, the
 12 failure of any employer to furnish said codes shall not relieve the insurance carrier
 13 or self-insured group from the obligation to furnish same to the funding
 14 commission. The Office of Employment and Training, Education
 15 Cabinet, ~~[Department for Employment Services, Cabinet for Workforce~~
 16 ~~Development]~~ is hereby directed to make available the SIC codes assigned in its
 17 records to specific employers to aid in the reporting and recording of the special
 18 fund assessment data.

19 (6) Each self-insured employer, self-insured group, or insurance carrier shall provide
 20 any information and submit any reports the Department of Revenue or the funding
 21 commission may require to effectuate the provisions of this section. In addition, the
 22 funding commission may enter reciprocal agreements with other governmental
 23 agencies for the exchange of information necessary to effectuate the provisions of
 24 this section.

25 (7) The special fund shall be required to maintain a central claim registry of all claims
 26 to which it is named a party, giving each such claim a unique claim number and
 27 thereafter recording the status of each claim on a current basis. The registry shall be

1 established by January 26, 1988, for all claims on which payments were made since
 2 July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all
 3 claim files in the possession of the special fund.

4 (8) The fund heretofore designated as the subsequent claim fund is abolished, and there
 5 is substituted therefor the special fund as set out by this section, and all moneys and
 6 properties owned by the subsequent claim fund are transferred to the special fund.

7 (9) Notwithstanding any other provisions of this section or this chapter to the contrary,
 8 the total amount of funds collected pursuant to the assessment rates adopted by the
 9 funding commission shall not be limited to the provisions of this section.

10 (10) All assessment rates imposed for periods prior to January 1, 1997, under KRS
 11 342.122 shall forever remain applicable to premiums received on policies with
 12 effective dates prior to January 1, 1997, by every insurance carrier writing workers'
 13 compensation insurance in the Commonwealth, by every self-insured group
 14 operating under the provision of KRS 342.350(4) and Chapter 304, and against the
 15 premium, as defined in KRS 342.0011, of every employer carrying his own risk.

16 Section 158. KRS 342.143 is amended to read as follows:

17 For the purposes of this chapter, the average weekly wage of the state shall be determined
 18 by the executive director as follows: On or before September 1 of each year, the total
 19 wages reported by subject employers under the Kentucky Unemployment Insurance Law
 20 for the preceding calendar year shall be divided by the average monthly number of
 21 insured workers (determined by dividing the total number of insured workers reported for
 22 the preceding year by twelve (12)). The average annual wage thus obtained shall be
 23 divided by fifty-two (52) and the average weekly wage thus determined rounded to the
 24 nearest cent. The average weekly wage shall be certified to the executive director by the
 25 Education Cabinet~~[for Workforce Development]~~ in a manner prescribed by the
 26 executive director by administrative regulation. The average weekly wage as so
 27 determined shall be applicable for the full period during which income or death benefits

1 are payable, when the date of occurrence of injury or of disability in the case of disease,
2 or of death, falls within the calendar year commencing January 1 following the September
3 1 determination. Whenever a change in the average weekly wage of the state is of such
4 amount that the minimum weekly income benefits for total disability or for death are
5 increased or decreased by one dollar (\$1) or more, or the maximum weekly income
6 benefits for total disability or for death are increased or decreased by two dollars (\$2) or
7 more, computed in each case and rounded to the nearest dollar, an adjustment in those
8 minimums or maximums which are affected in the requisite amount by the change in the
9 average weekly wage of the state shall be made which will reflect this increase or
10 decrease, but no change in such limitations shall otherwise be made. Notwithstanding the
11 provisions of this section, KRS 342.140, 342.740, or any other provisions of this chapter
12 to the contrary, the average weekly wage for calendar years 1995 and 1996 shall be
13 determined to be no higher than the average weekly wage determined by the executive
14 director to be in effect in the calendar year of 1994. If the average weekly wage calculated
15 by the executive director is determined to be lower than the 1994 calendar year wage, the
16 average weekly wage may be lowered as provided by this section. Beginning in calendar
17 year 1997 and annually thereafter, the average weekly wage shall be calculated based
18 upon the state average weekly wage in effect two (2) years prior to that calculation.

19 Section 159. KRS 342.710 is amended to read as follows:

- 20 (1) One of the primary purposes of this chapter shall be restoration of the injured
21 employee to gainful employment, and preference shall be given to returning the
22 employee to employment with the same employer or to the same or similar
23 employment.
- 24 (2) The executive director shall continuously study the problems of rehabilitation, both
25 physical and vocational, and shall investigate and maintain a directory of all
26 rehabilitation facilities, both private and public.
- 27 (3) An employee who has suffered an injury covered by this chapter shall be entitled to

1 prompt medical rehabilitation services for whatever period of time is necessary to
2 accomplish physical rehabilitation goals which are feasible, practical, and
3 justifiable. When as a result of the injury he is unable to perform work for which he
4 has previous training or experience, he shall be entitled to such vocational
5 rehabilitation services, including retraining and job placement, as may be
6 reasonably necessary to restore him to suitable employment. In all such instances,
7 the administrative law judge shall inquire whether such services have been
8 voluntarily offered and accepted. The administrative law judge on his own motion,
9 or upon application of any party or carrier, after affording the parties an opportunity
10 to be heard, may refer the employee to a qualified physician or facility for
11 evaluation of the practicability of, need for, and kind of service, treatment, or
12 training necessary and appropriate to render him fit for a remunerative occupation.
13 Upon receipt of such report, the administrative law judge may order that the
14 services and treatment recommended in the report, or such other rehabilitation
15 treatment or service likely to return the employee to suitable, gainful employment,
16 be provided at the expense of the employer or his insurance carrier. Vocational
17 rehabilitation training, treatment, or service shall not extend for a period of more
18 than fifty-two (52) weeks, except in unusual cases when by special order of the
19 administrative law judge, after hearing and upon a finding, determined by sound
20 medical evidence which indicates such further rehabilitation is feasible, practical,
21 and justifiable, the period may be extended for additional periods.

- 22 (4) Where rehabilitation requires residence at or near the facility or institution, away
23 from the employee's customary residence, reasonable cost of his board, lodging, or
24 travel shall be paid for by the employer or his insurance carrier.
- 25 (5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge
26 shall result in a fifty percent (50%) loss of compensation for each week of the
27 period of refusal.

- 1 (6) The executive director shall cooperate on a reciprocal basis with the
 2 Office~~[Department]~~ of Vocational Rehabilitation and the Office of~~[Department for]~~
 3 Employment and Training~~[Services]~~ of the Education~~[Kentucky]~~ Cabinet~~[for~~
 4 ~~Workforce Development]~~. In the event medical treatment, medical rehabilitation
 5 services, or vocational rehabilitation services are purchased for an injured employee
 6 by the Office~~[Department]~~ of Vocational Rehabilitation or Office of~~[Department~~
 7 ~~for]~~ Employment and Training~~[Services]~~ following the refusal by the employer or
 8 his insurance carrier to provide such services, the administrative law judge, after
 9 affording the parties an opportunity to be heard, may order reimbursement of the
 10 cost of such treatment or services by the employer or his insurance carrier as
 11 apportioned in the award. This section shall not be interpreted to require mandatory
 12 evaluation of employees based on length of disability. Any administrative
 13 regulations promulgated pursuant to this section that require mandatory referral to a
 14 qualified rehabilitation counselor shall expire on April 4, 1994.
- 15 (7) An employee who is enrolled and participating in a program of rehabilitation
 16 training pursuant to this section may elect to receive an acceleration of benefits as
 17 awarded under KRS 342.730. Such acceleration shall be available to the employee
 18 during the period of retraining, but in no event shall be paid in a weekly amount
 19 greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage
 20 upon which the award is based, not to exceed one hundred percent (100%) of the
 21 state average weekly wage. Upon successful completion of the rehabilitation
 22 program, the total of all accelerated benefits paid shall be deducted on a dollar-for-
 23 dollar basis, without discount, from weekly benefits otherwise due the employee
 24 subject to the maximum amount of the award. Such remaining benefits, if any, shall
 25 then be divided by the number of weeks remaining payable under the award, and
 26 that amount shall be the weekly benefit due the employee. If a program of
 27 rehabilitation training is terminated by the employee prior to completion, all sums

1 paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265
 2 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due
 3 the employee subject to the maximum amount of the award. Such remaining
 4 benefits, after the discount, shall be divided by the number of weeks remaining
 5 payable under the award, and that amount shall be the weekly benefit due the
 6 employee. In no event shall this subsection be construed as requiring payment of
 7 benefits in excess of the total of those benefits which would otherwise be payable
 8 under the award.

9 Section 160. KRS 342.732 is amended to read as follows:

10 (1) Notwithstanding any other provision of this chapter, income benefits and retraining
 11 incentive benefits for occupational pneumoconiosis resulting from exposure to coal
 12 dust in the severance or processing of coal shall be paid as follows:

13 (a) 1. If an employee has a radiographic classification of category 1/0, 1/1 or
 14 1/2, coal workers' pneumoconiosis and spirometric test values of eighty
 15 percent (80%) or more, the employee shall be awarded a one (1) time
 16 only retraining incentive benefit which shall be an amount equal to
 17 sixty-six and two-thirds percent (66-2/3%) of the employee's average
 18 weekly wage as determined by KRS 342.740, but not more than seventy-
 19 five percent (75%) of the state average weekly wage, payable
 20 semimonthly for a period not to exceed one hundred four (104) weeks,
 21 except as provided in subparagraph 3. of this paragraph.

22 2. Except as provided in subparagraph 3. of this paragraph, these benefits
 23 shall be paid only while the employee is enrolled and actively and
 24 successfully participating as a full-time student taking the equivalent of
 25 twelve (12) or more credit hours per week in a bona fide training or
 26 education program that if successfully completed will qualify the person
 27 completing the course for a trade, occupation, or profession and which

1 program can be completed within the period benefits are payable under
 2 this subsection. The program must be approved under administrative
 3 regulations to be promulgated by the executive director. These benefits
 4 shall also be paid to an employee who is a part-time student taking not
 5 less than the equivalent of six (6) nor more than eleven (11) credit hours
 6 per week, except that benefits shall be an amount equal to thirty-three
 7 and one-third percent ($33\frac{1}{3}\%$) of the employee's average weekly wage
 8 as determined by KRS 342.740, but not more than thirty-seven and one-
 9 half percent ($37\frac{1}{2}\%$) of the state average weekly wage, payable
 10 biweekly for a period not to exceed two hundred eight (208) weeks.

- 11 3. These benefits shall also be paid biweekly while an employee is actively
 12 and successfully pursuing a General Equivalency Diploma (GED) in
 13 accordance with administrative regulations promulgated by the
 14 executive director. These benefits shall be paid in the amount of sixty-
 15 six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly
 16 wage not to exceed seventy-five percent (75%) of the state average
 17 weekly wage for a maximum period not to exceed seventeen (17) weeks.
 18 These income benefits shall be in addition to the maximum amount of
 19 retraining incentive benefits payable under this paragraph.

- 20 4. The employer shall also pay, directly to the institution conducting the
 21 training or education program, instruction, tuition, and material costs not
 22 to exceed five thousand dollars (\$5,000).

- 23 5. The period of weeks during which this benefit is payable shall begin no
 24 later than the thirtieth day after the administrative law judge's order
 25 awarding the benefit becomes final, except that an employee may elect
 26 to defer the beginning of such benefits up to the three hundred sixty-fifth
 27 day following the thirtieth day the order becomes final. Unless the

1 employee has requested deferral of income benefits, those income
2 benefits payable under subparagraphs 1. and 2. of this paragraph shall
3 begin no later than thirty (30) days following conclusion of income
4 benefits paid under subparagraph 3. if such benefits were paid.

5 6. If an employee who is awarded retraining incentive benefits under this
6 paragraph successfully completes a bona fide training or education
7 program approved by the executive director, upon completion of the
8 training or education program, the employer shall pay to that employee
9 the sum of five thousand dollars (\$5,000) for successful completion of a
10 program that requires a course of study of not less than twelve (12)
11 months nor more than eighteen (18) months, or the sum of ten thousand
12 dollars (\$10,000) for successful completion of a program that requires a
13 course of study of more than eighteen (18) months. This amount shall be
14 in addition to retraining incentive benefits awarded under this paragraph,
15 and tuition expenses paid by the employer.

16 7. An employee who is age fifty-seven (57) years or older on the date of
17 last exposure and who is awarded retraining incentive benefits under
18 subparagraph 1. to 4. of this paragraph, may elect to receive in lieu of
19 retraining incentive benefits, an amount equal to sixty-six and two-thirds
20 percent ($66\frac{2}{3}\%$) of the employee's average weekly wage, not to exceed
21 seventy-five percent (75%) of the state average weekly wage as
22 determined by KRS 342.740 multiplied by the disability rating of
23 twenty-five percent (25%) for a period not to exceed four hundred
24 twenty-five (425) weeks, or until the employee reaches sixty-five (65)
25 years of age, whichever occurs first, KRS 342.730(4) notwithstanding.

26 8. A claim for retraining incentive benefits provided under this section may
27 be filed, but benefits shall not be payable, while an employee is

1 employed in the severance or processing of coal as defined in KRS
2 342.0011(23).

3 9. If an employer appeals an award of retraining incentive benefits, upon an
4 employee's motion, an administrative law judge may grant retraining
5 incentive benefits pending appeal as interlocutory relief.

6 10. If an employee elects to defer payment of retraining incentive benefits
7 for a period of retraining longer than three hundred sixty-five (365) days,
8 benefits otherwise payable shall be reduced week-for-week for each
9 week retraining benefits are further deferred.

10 (b) 1. If an employee has a radiographic classification of category 1/0, 1/1, or
11 1/2 coal workers' pneumoconiosis and respiratory impairment evidenced
12 by spirometric test values of fifty-five percent (55%) or more but less
13 than eighty percent (80%) of the predicted normal values, or category
14 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and spirometric test values
15 of eighty percent (80%) or more of the predicted normal values, there
16 shall be an irrebuttable presumption that the employee has a disability
17 rating of twenty-five percent (25%) resulting from exposure to coal dust,
18 and the employee shall be awarded an income benefit which shall be an
19 amount equal to sixty-six and two-thirds percent (66-2/3%) of the
20 employee's average weekly wage, but not to exceed seventy-five percent
21 (75%) of the state average weekly wage as determined by KRS 342.740
22 multiplied by the disability rating of twenty-five percent (25%). The
23 award shall be payable for a period not to exceed four hundred twenty-
24 five (425) weeks.

25 2. An employee who is awarded benefits under this paragraph may, at the
26 time of the award or before benefit payments begin, elect to receive
27 retraining incentive benefits provided under subparagraphs 1. to 6. of

paragraph (a) of this subsection, in lieu of income benefits awarded under this paragraph, provided that such option is available one (1) time only and is not revokable, and provided that in no event shall income benefits payable under this paragraph be stacked or added to retraining incentive income benefits paid or payable under subparagraphs 1. to 6. of paragraph (a) of this subsection to extend the period of disability.

(c) If it is determined that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 3/2 or 3/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more, there shall be an irrebuttable presumption that the employee has a disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of fifty percent (50%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.

(d) If it is determined that an employee has a radiographic classification of category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values or category 3/2 or 3/3 pneumoconiosis and

1 respiratory impairment evidenced by spirometric test values of fifty-five
 2 percent (55%) or more but less than eighty percent (80%) of the predicted
 3 normal values, there shall be an irrebuttable presumption that the employee
 4 has a seventy-five percent (75%) disability rating resulting from exposure to
 5 coal dust and the employee shall be awarded income benefits which shall be
 6 equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average
 7 weekly wage but not to exceed seventy-five percent (75%) of the state average
 8 weekly wage as determined by KRS 342.740 multiplied by the disability
 9 rating of seventy-five percent (75%). The award shall be payable for a period
 10 not to exceed five hundred twenty (520) weeks. Income benefits awarded
 11 under this paragraph shall be payable to the employee during the disability.

- 12 (e) If it is determined that an employee has radiographic classification of $\frac{3}{2}$ or
 13 $\frac{3}{3}$ occupational pneumoconiosis and respiratory impairment evidenced by
 14 spirometric test values of less than fifty-five percent (55%) of the predicted
 15 normal values, or complicated pneumoconiosis (large opacities category A, B,
 16 or C progressive massive fibrosis), there shall be an irrebuttable presumption
 17 that the employee is totally disabled resulting from exposure to coal dust, and
 18 the employee shall be awarded income benefits equal to sixty-six and two-
 19 thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wage but not more
 20 than one hundred percent (100%) of the state average weekly wage and not
 21 less than twenty percent (20%) of the average weekly wage of the state as
 22 determined by KRS 342.740. Income benefits awarded under this paragraph
 23 shall be payable to the employee during such disability.

- 24 (2) The presence of respiratory impairment resulting from exposure to coal dust shall
 25 be established by using the largest forced vital capacity (FVC) value or the largest
 26 forced expiratory volume in one second (FEV1) value determined from the totality
 27 of all such spirometric testing performed in compliance with accepted medical

1 standards.

2 (3) When valid spirometric tests are not provided and a physician certifies to the
3 administrative law judge that spirometric testing is not medically indicated because
4 of the permanent physical condition of the employee, the administrative law judge
5 shall make his decision on the basis of evidence admitted which establishes the
6 existence of a diagnosis of occupational pneumoconiosis and respiratory
7 impairment due to the occupational pneumoconiosis. The evidence submitted by the
8 employee shall include one (1) or more arterial blood gas studies performed in
9 accordance with accepted medical standards. Income benefits shall not be awarded
10 in the absence of valid spirometric tests if the claimant's PO₂ arterial blood gas
11 value is equal to or higher than one (1) standard deviation from the normal value
12 obtained by the formula $(103.5 - 0.42X)$, where X equals the claimant's age at the
13 time of the arterial blood gas study.

14 (4) Upon request, the executive director shall refer an employee who has been awarded
15 retraining incentive benefits under subsection (1)(a) of this section to the
16 Office~~Department~~ of Vocational Rehabilitation for evaluation and assessment of
17 the training, education, or other services necessary to prepare the employee for a
18 trade, occupation, or profession that will return the employee to remunerative
19 employment, or services necessary and appropriate to prepare and enable the
20 employee to successfully complete a bona fide training or education program
21 approved by the executive director. The executive director shall contract with the
22 Office~~Department~~ of Vocational Rehabilitation to provide vocational
23 rehabilitation or education services commensurate with the skill levels and abilities
24 of the employee. Services provided under this subsection shall be funded by the coal
25 workers' pneumoconiosis fund, KRS 342. 1242 notwithstanding.

26 (5) The executive director shall promulgate administrative regulations sufficient to
27 effectuate the provisions relating to retraining incentive benefits provided under

1 subsection (1)(a) of this section. The administrative regulations shall:

- 2 (a) Define a "bona fide training or education program" to mean a postsecondary
3 education or training program, including but not limited to the postsecondary
4 programs registered with the Higher Education Assistance Authority, and
5 successful completion of which will qualify the person completing the course
6 for a trade, occupation, or profession, and which program can be completed
7 within the period benefits are payable under subsection (1)(a) of this section;
- 8 (b) Establish requirements for approval and certification of a bona fide training or
9 education program;
- 10 (c) Provide that funds paid to the training or education program by the employer
11 as required under subsection (1)(a)4. of this section shall be applied only to
12 instruction, tuition, material costs, and any fees necessary for the completion
13 of the program;
- 14 (d) Establish requirements for successful participation in and completion of an
15 approved and certified bona fide training or education program, and eligibility
16 standards that must be satisfied to receive sums to be paid by the employer
17 pursuant to subsection (1)(a)6. of this section; and
- 18 (e) Establish attendance, performance and progress standards, and reporting
19 requirements in consultation with the Kentucky~~[Department of]~~ Adult
20 Education *Program within the Council on Postsecondary Education*~~[and~~
21 Literacy] as conditions that must be satisfied to receive retraining incentive
22 income benefits pursuant to subsection (1)(a)3. of this section.
- 23 (6) In no event shall income benefits awarded under this section be stacked or added to
24 income benefits awarded under KRS 342.730 to extend the period of disability and
25 in no event shall income or retraining incentive benefits be paid to the employee
26 while the employee is working in the mining industry in the severance or processing
27 of coal as defined in KRS 342.0011(23)(a).

1 Section 161. KRS 342.740 is amended to read as follows:

- 2 (1) For the purposes of this chapter, the average weekly wage of the state shall be
 3 determined by the executive director as follows: On or before September 1 of each
 4 year, the total wages reported by subject employers under the Kentucky
 5 Unemployment Insurance Law for the preceding calendar year shall be divided by
 6 the average monthly number of insured workers (determined by dividing the total
 7 number of insured workers reported for the preceding year by twelve (12). The
 8 average annual wage thus obtained shall be divided by 52 and the average weekly
 9 wage thus determined rounded to the nearest cent. This average weekly wage shall
 10 be certified to the executive director by the Education Cabinet~~[- for Workforce~~
 11 ~~Development]~~ in a manner prescribed by the executive director by administrative
 12 regulation. The average weekly wage as so determined shall be applicable for the
 13 full period during which income or death benefits are payable, when the date of
 14 occurrence of injury or of disablement in the case of disease, or of death, falls
 15 within the calendar year commencing January 1 following the September 1
 16 determination.

- 17 (2) Whenever a change in the average weekly wage of the state is of an amount that
 18 increases or decreases the minimum weekly income benefits for total disability or
 19 death by \$1 or more, or the maximum weekly income benefits for total disability or
 20 for death by \$2 or more, computed in each case and rounded to the nearest dollar, an
 21 adjustment in those minimums or maximums which are affected in the requisite
 22 amount by the change in the average weekly wage of the state shall be made which
 23 will reflect the increase or decrease, but no change in these limitations shall
 24 otherwise be made.

25 Section 162. KRS 347.040 is amended to read as follows:

- 26 (1) The secretaries of the Cabinet for Health and Family Services and the Education~~[-~~
 27 ~~Arts, and Humanities]~~ Cabinet and the chief state school officer shall jointly

1 develop and implement a statewide plan, with adequate opportunity for public
2 comment, to serve all persons with developmental disabilities not otherwise entitled
3 to and receiving the same services under another state or federal act, which will
4 include provisions for:

- 5 (a) Identification and prompt and adequate interdisciplinary assessment;
- 6 (b) Case management services; and
- 7 (c) Services and residential alternatives as defined by this chapter in the least
8 restrictive, individually appropriate environment.

9 (2) The first plan and annual updates shall be presented to the Legislative Research
10 Commission which shall refer it to an appropriate committee for review and
11 comment.

12 (3) The plan shall include:

- 13 (a) The number of institution residents on waiting lists for placement in the
14 community;
- 15 (b) The number of persons outside institutions on waiting lists for placement in
16 the institution;
- 17 (c) The number of persons for whom no placement is made nor services provided
18 because of a lack of community resources;
- 19 (d) The number, type, nature, and cost of services necessary for placement to
20 occur;
- 21 (e) The status of compliance with the plan;
- 22 (f) The cabinets' specific efforts to increase residential and institutional services
23 and documentation of the success of these efforts; and
- 24 (g) The specific plans for new efforts to enhance the opportunities for persons
25 with developmental disabilities to move into less restrictive environments.

26 (4) The state health plan shall be developed consistently with the plan required under
27 this chapter.

1 Section 163. KRS 347.050 is amended to read as follows:

2 The Cabinet for Health and Family Services~~[, the Education, Arts, and Humanities]~~
3 Cabinet, and the Department of Education shall promulgate and implement rules and
4 regulations for the:

5 (1) Enhancement and protection of the rights of persons receiving services and active
6 treatment in both the public and private sectors under this chapter, including, but
7 not limited to, the right to:

8 (a) Provision of services in the least restrictive, individually appropriate
9 environment;

10 (b) An individualized service plan;

11 (c) Privacy and humane service;

12 (d) Confidentiality, access, referral, and transfer of records;

13 (e) Monitored active treatment in the least restrictive, individually appropriate
14 environment;

15 (f) Notice of rights under this chapter; and

16 (g) A fair, timely, and impartial grievance procedure to resolve grievances
17 concerning identification and evaluation, services and active treatment,
18 residential alternatives, and the protection of the rights of persons with
19 developmental disabilities under this chapter.

20 (2) Implementation of this chapter providing for the orderly development of services
21 and coordination among organizational units, administrative bodies, and service
22 providers to assure effective provision of services in both the public and private
23 sectors to persons with developmental disabilities.

24 Section 164. KRS 347.060 is amended to read as follows:

25 The Cabinet for Health and Family Services, the Education~~[, Arts, and Humanities]~~
26 Cabinet, and the Department of Education may assess reasonable charges for services
27 rendered under this chapter, based upon a sliding fee scale which takes into account the

1 extensive services required as a result of, and the extraordinary expenses related to, a
 2 developmental disability; provided that no charges for services rendered under this
 3 chapter may be assessed for compliance with requirements and responsibilities mandated
 4 under any state or federal act as provided under subsection (5) of KRS 347.010.

5 Section 165. KRS 439.179 is amended to read as follows:

6 (1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or
 7 forfeiture, or contempt of court, may be granted the privilege of leaving the jail
 8 during necessary and reasonable hours for any of the following purposes:

9 (a) Seeking employment; or

10 (b) Working at his employment; or

11 (c) Conducting his own business or other self-employment occupation including,
 12 in the case of a woman, housekeeping and attending the needs of her family;

13 or

14 (d) Attendance at an educational institution; or

15 (e) Medical treatment.

16 (2) Unless the privilege is expressly granted by the court, the prisoner shall be
 17 sentenced to ordinary confinement. The prisoner may petition the sentencing court
 18 for the privilege at the time of sentence or thereafter, and, in the discretion of the
 19 sentencing court, may renew his petition. The sentencing court may withdraw the
 20 privilege at any time by order entered with or without notice. The jailer shall advise
 21 the court in establishing criteria in determining a prisoner's eligibility for work
 22 release.

23 (3) The jailer shall notify the Office~~[Department]~~ for Employment and
 24 Training~~[Services]~~, Department~~[Cabinet]~~ for Workforce
 25 Investment~~[Development]~~ which shall endeavor to secure employment for
 26 unemployed prisoners under this section. If a prisoner is employed for wages or
 27 salary, they shall, by wage assignment, be turned over to the District Court which

1 shall deposit the same in a trust checking account and shall keep a ledger showing
2 the status of the account of each prisoner. The wages or salary shall not be subject
3 to garnishment of either the employer or the District Court during the prisoner's
4 term, and shall be disbursed only as provided in this section. For tax purposes they
5 shall be the income of the prisoner.

6 (4) Every prisoner gainfully employed shall be liable for the cost of his board in the jail,
7 for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages,
8 not to exceed forty dollars (\$40) per day, but not less than twelve dollars (\$12) per
9 day, established by the fiscal court of a county or the urban-county council if an
10 urban-county government. If he defaults, his privilege under this section shall be
11 automatically forfeited. All moneys shall be paid directly to the jailer and paid to
12 the county treasury for use on the jail as provided in KRS 441.206. The fiscal court
13 of a county or the urban-county council if an urban-county government may, by
14 ordinance, provide that the county furnish or pay for the transportation of prisoners
15 employed under this section to and from the place of employment and require that
16 the costs be repaid by the prisoner.

17 (5) The sentencing court may order the defendant's employer to deduct from the
18 defendant's wages or salary payments for the following purposes:

- 19 (a) The board of the prisoner and transportation costs incurred by the county;
20 (b) Support of the prisoner's dependents, if any;
21 (c) Payment, either in full or ratably, of the prisoner's obligations acknowledged
22 by him in writing or which have been reduced to judgment;
23 (d) The balance, if any, to the prisoner upon his discharge.

24 (6) The sentencing court shall not direct that any payment authorized under this section
25 be paid through the circuit clerk.

26 (7) The Department of Corrections shall, at the request of the District Judge, investigate
27 and report on the amount necessary for the support of the prisoner's dependents, and

periodically review the prisoner's progress while on leave from the jail and report its findings to the District Judge.

(8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

(9) In counties containing an urban-county form of government, the duties, responsibilities, and obligations vested herein in the Department of Corrections shall be performed by the adult misdemeanor probation and work release agency of the urban-county government.

Section 166. KRS 533.210 is amended to read as follows:

(1) The program described in KRS 533.200 shall be administered by the Kentucky Adult Education Program within the Council on Postsecondary Education,~~[Department for Adult Education and Literacy within the Cabinet for Workforce Development]~~ which shall promulgate administrative regulations, pursuant to KRS Chapter 13A, relative to the conduct of the program including, but not limited to, the costs of participation in the program by persons sentenced to the program.

(2) The Kentucky Adult Education Program~~[Department for Adult Education and Literacy within the Cabinet for Workforce Development]~~ shall license qualified persons or organizations to conduct the program described in KRS 533.200 on behalf of the agency. Qualifications, the manner of licensing, and all other matters shall be set by administrative regulation.

Section 167. KRS 151B.400 is repealed and reenacted as a new section of KRS Chapter 164, to read as follows:

The General Assembly of the Commonwealth of Kentucky finds and declares that:

(1) The economic future of the Commonwealth and the prosperity of its citizens depend on the ability of Kentucky businesses to compete effectively in the world economy;

1 (2) A well-educated and highly trained workforce provides businesses in the
2 Commonwealth with the competitive edge critical for their success; and

3 (3) Too many adult Kentuckians are not full participants in the labor pool because they
4 lack a high school diploma, its equivalent, or the workplace knowledge necessary to
5 assure self-sufficiency for themselves and their families.

6 Section 168. KRS 151B.405 is repealed and reenacted as a new section of KRS
7 Chapter 164 to read as follows:

8 As used in KRS 151B.400 to 151B.410, unless the context indicates otherwise:

9 (1) "Adult education" means for programs funded under the Federal Workforce
10 Investment Act of 1998, services or instruction below the postsecondary level for
11 individuals:

12 (a) Who have attained the age of sixteen (16) years of age;

13 (b) Who are not enrolled or required to be enrolled in secondary school under
14 state law; and

15 (c) Who:

16 1. Lack sufficient mastery of basic educational skills to enable the
17 individuals to function effectively in society;

18 2. Are unable to speak, read, or write the English language; or

19 3. Do not have a secondary school diploma or its recognized equivalent,
20 and have not achieved an equivalent level of education;

21 (2) "Family literacy services" means services that are of sufficient intensity in terms of
22 hours, and of sufficient duration, to assist a family to make sustainable increases in
23 its literacy level, and integrate the activities described in KRS 158.360; and

24 (3) "Literacy" means an individual's ability to read, write, and speak in English and
25 compute and solve problems at levels of proficiency necessary to function on the
26 job and in society to achieve one's goals and develop one's knowledge and potential.

27 SECTION 169. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO

1 READ AS FOLLOWS:

2 *The following organizational units and administrative bodies shall be governed by*
 3 *their respective substantive chapters as set out below:*

4 *(1) Board of Directors for the Center for School Safety under KRS Chapter 158;*

5 *(2) Council on Postsecondary Education under KRS Chapter 164;*

6 *(3) Department of Education under KRS Chapters 156, 157, 158, 161, 163, and 167;*

7 *(4) Education Professional Standards Board under KRS Chapter 161;*

8 *(5) Kentucky Board of Education under KRS Chapters 156 and 157;*

9 *(6) Kentucky Commission on Deaf and Hard of Hearing under KRS Chapter 163;*

10 *and*

11 *(7) Kentucky Educational Television under KRS Chapter 168.*

12 Section 170. The following KRS sections are repealed:

13 12.401 Office of Early Childhood Development.

14 151B.023 Department for Adult Education and Literacy.

15 151B.215 Kentucky Occupational Information Coordinating Committee.

16 151B.260 Department for Training and Reemployment -- Appointment of
 17 commissioner.

18 156.120 Superintendent of Public Instruction -- Location of office -- Traveling expenses
 19 -- Salary.

20 156.497 Interagency Task Force on Family Resource Centers and Youth Services
 21 Centers -- Formulation of five-year plan -- Implementation.

22 156.666 Council for Education Technology -- Membership -- Duties.

23 200.711 Early Childhood Professional Development Council.

24 Section 171. In order to reflect the reorganization effectuated by this Act, the
 25 reviser of statutes shall replace references in the Kentucky Revised Statutes to the
 26 agencies, subagencies, and officers established to the new entities by this Act and may
 27 consult with officers of the affected agencies, or their designees, to receive suggestions.

1 Section 172. The General Assembly confirms the Governor's Executive Order
2 2005-576, dated June 20, 2005, as it relates to the Education Cabinet to the extent
3 provided and not superseded in this Act. The General Assembly further confirms that
4 executive order as follows:

5 Within the Department of Education the organizational and administrative structure
6 shall be:

- 7 (1) Office of the Commissioner;
- 8 (2) Bureau of Operations and Support Services;
- 9 (3) Office of Internal Administration and Support;
 - 10 (a) Division of Budgets;
 - 11 (b) Division of Financial and Material Management;
 - 12 (c) Division of Administrative Services;
 - 13 (d) Division of Human Resources;
 - 14 (f) Division of Project Management;
- 15 (4) Office of Education Technology;
 - 16 (a) Division of KETS Engineering and Management;
 - 17 (b) Division of KETS Operations and Services;
- 18 (5) Office of Legal and Legislative Services;
- 19 (6) Office of Communications;
 - 20 (a) Division of Publications and Web Services;
 - 21 (b) Division of Video and Multi-Media Services;
- 22 (7) Bureau of Learning and Results Services;
- 23 (8) Office of Special Instructional Services;
 - 24 (a) Division of Exceptional Children Services;
 - 25 (b) Division of Career and Technical Education;
 - 26 (c) Division of Federal Programs and Instructional Equity;
 - 27 (d) Division of Kentucky School for the Blind;

- 1 (f) Division of Kentucky School for the Deaf;
- 2 (9) Office of Leadership and School Improvement;
- 3 (a) Division of Leadership and Instructional Support;
- 4 (b) Division of Scholastic Assistance;
- 5 (c) Division of Educator Quality and Diversity;
- 6 (10) Office of Assessment and Accountability;
- 7 (a) Division of Assessment Implementation;
- 8 (b) Division of Assessment Support;
- 9 (11) Office of Teaching and Learning;
- 10 (a) Division of Curriculum Development;
- 11 (b) Division of Secondary and Virtual Learning;
- 12 (c) Division of Early Childhood Development;
- 13 (12) Office of District Support Services;
- 14 (a) Division of Audit and Transportation Services;
- 15 (b) Division of Facilities Management;
- 16 (c) Division of School Finance;
- 17 (d) Division of Nutrition and Health Services;
- 18 (e) Division of Policy Management and Research.

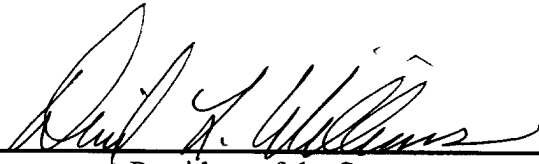
19 The Office of Employment and Training within the Department of Workforce
 20 Investment shall include the Division of Unemployment Insurance and the Division of
 21 Workforce and Employment Services.

22 Within the Council on Postsecondary Education, the following organizational units
 23 are abolished:

- 24 (1) Executive Assistant for Operations;
- 25 (2) Division of Finance;
- 26 (3) Division of Governmental Affairs;
- 27 (4) Division of Planning and Policy Studies; and

1 (5) Division of Academic Affairs.

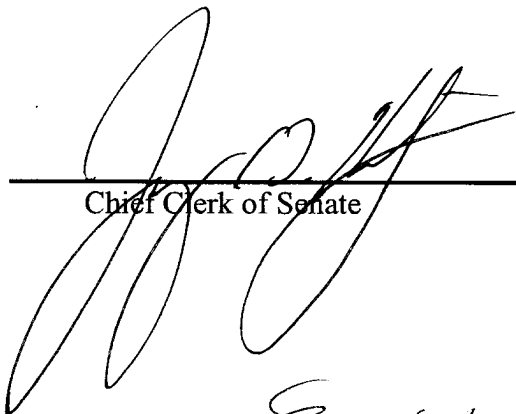
2 Within the Education Professional Standards Board, the Office of the Executive
3 Director is hereby created. The Division of Technology within the Education Professional
4 Standards Board is hereby abolished.



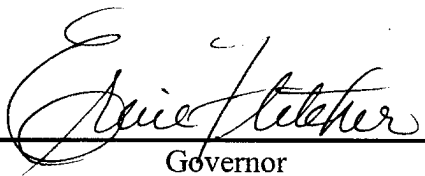
President of the Senate



Speaker-House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date 4/21/06